

COUNTY NOTICES PURSUANT TO A.R.S. § 49-112(A) or (B)

NOTICE OF PROPOSED RULEMAKING

MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

REGULATION II, PERMITS AND FEES

PREAMBLE

- | | |
|---------------------------------|---------------------------------|
| <u>1. Rules Affected</u> | <u>Rulemaking Action</u> |
| Rule 280 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 49-402, 49-473(B), 49-476.01(A), 49-476.01(C), 49-479, and 11-251.08(A)

Implementing statutes: A.R.S. §§ 49-480(D), 49-480(E), 49-480(J), 49-112(A), 49-112(B), and 11-251.08(B)
- 3. A list of all previous notices appearing in the Register addressing the proposed rules:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 4108, September 27, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jo Crumbaker, Air Quality Division

Address: 1001 N. Central Avenue, Suite #201
Phoenix, AZ 85004

Telephone: 602-506-6705

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E-mail: jcrumbak@mail.maricopa.gov
- 5. An explanation of the rule, including the agency's reasons for initiating the rule revision:**

This rule revises the structure of the Maricopa County's Title V and Non-Title V air permit fees. The Title V and Non-Title V (except for Stage I Vapor Recovery Sources) fees have not been increased since 1993. For this proposed rulemaking, Maricopa County completed an updated work load analysis to be consistent with the methodology used by the Arizona Department of Environmental Quality (ADEQ). From this analysis, Maricopa County has concluded that the fees no longer provide sufficient revenue to cover the costs of the permitting programs and compliance with federal and state law. This discrepancy is due to an under estimation of the workload required to comply with Title V and MACT requirements in 1993 as well as to inflation, the increased administrative requirements associated with regulatory reform, other rising costs and the nonattainment area downgrades to "serious".

The need for permit fee rules is based on the County's mandate to comply with state law and the federal Clean Air Act. The County is required to develop and implement a permit program in which fees paid by sources will support program development and implementation costs. The program fee requirement is statutorily mandated by A.R.S. § 49-480(D)(1) and (D)(2). Furthermore, A.R.S. § 49-480(D)(1) requires the County to establish a fee system that is "consistent with and equivalent to that prescribed under § 502 of the clean air act." Arizona law, being consistent with the 1990 Clean Air Act (CAA) amendments, also provides for increasing permit fees based on the consumer price index. The proposed revisions to Rule 280 conform to these mandates.

An additional complication to County rulemaking authority relates to a statutory provision that links county permit fees to those that the Arizona Department of Environmental Quality (ADEQ) sets. A.R.S. § 49-112 was added by the legislature in 1994 placing limits on county environmental rules. Subsection (B) limits the amount the counties may charge for their permit fees to an amount "approximately equal or less than" the fee the state program may charge. "Approximately equal" is defined in A.R.S. § 49-101 as "not greater than ten percent more than the fees or costs changed by the state for similar state permit or approvals." A small number of sources regulated by Maricopa County fall under A.R.S. § 49-112(B).

To ensure that Maricopa County, Pima and Pinal counties, and ADEQ would all recover adequate revenue, ADEQ convened a statewide stakeholder process to revise fees. ADEQ's challenge was to develop a fee schedule that would allow Maricopa, the other counties and ADEQ sufficient revenue to recover costs and allocate permit program costs

among sources in a manner that would be equitable and acceptable to those who pay the fees. ADEQ employed linear program modeling using Microsoft Excel[®] Solver Tool to project figures contained in ADEQ's and Maricopa County's Work Load Analyses and estimates supplied by Pinal and Pima counties. Additionally, cost allocation calculations were employed to ensure that fees from Title V permits were used solely for Title V program costs. ADEQ adopted the resulting fee schedule and the state sources began paying the revised fee January 1, 2002.

Title V of the CAA provides for a permit system implemented by states, and requires that states recover costs incurred to develop and administer the operating permit program, including the following costs:

- Preparing rules and implementing procedures for the permit program, including enforcement provisions.
- Reviewing and acting upon permit applications, including permit revisions, renewals, etc.
- Administering and operating the program (e.g., all activities pertaining to issuing permits; supporting and tracking permitted sources; compliance certifications; and related data entry).
- Implementing and enforcing permit terms, excluding court costs or other costs associated with enforcement actions.
- Performing emissions and ambient monitoring.
- Performing modeling, analyses, and demonstrations.
- Preparing inventories and tracking emissions.
- Developing and administering a Small Business Assistance Program (SBAP), pursuant to CAA 502(b)(3)(7)(A)(i) through (vi).

CAA, § 502(b)(3). A final objective met by these rules is to assure that the state's Title V permit fee program is EPA-approvable, thus avoiding a federally-administered program in this state.

For purposes of fees, the designations "Title V" and "Non-Title V" generally refer to the origin of the source's permit requirement. For a source that requires a permit according to both state law and Title V of the federal CAA, this proposed fee structure includes an hourly-based permit processing fee. The source must also pay an annual administrative fee plus an annual emissions-based fee. Non-title V sources require a permit only under state law. The proposed fee structure for new and modified non-title V sources is based on an hourly-based fee not to exceed a total of \$25,000 for more complex sources (Tables A-B) and a flat permit for simpler sources (Tables C-E) based on historical averages. The non-title V source must also pay an annual administrative and permit renewal fee. For a source that is covered under a general permit, the fee structure is based on fixed amounts for obtaining an authorization to operate and an annual administrative fee. In response to comments from sources, the Non-Title V and general permit annual fees would be restructured to include 1/5 of permit processing fee for permit renewal as well as the annual costs for inspection, emission inventory, and regulatory activities. This structure would allow the Non-Title V source to pay approximately the same fee each year and avoid the second fee due every five years at permit renewal under the current system.

ADEQ reports that one reason for the proposed structure is that Title V sources had expressed an interest in moving away from the previous fee structure, under which emissions-based fees provided over three-quarters of ADEQ's total annual revenue. Such a structure did not provide for budgeting consistency from year to year because emissions are, in part, determined by a source's operational demands, which may vary greatly from year to year. From Maricopa County's perspective, the emissions-based fee that allowed ADEQ to recover its Title V program costs did not allow the County to recover its costs due to the significantly smaller size of county Title V sources. Maricopa County agrees with ADEQ that this proposed structure will allow sources to better anticipate their costs since only a small portion of the annual fees are based on emissions tonnage. The emissions tonnage will be billed at \$11.75/ton, which is revised annually based on the Consumer Price Index. The annual administrative fees, also adjusted annually, were calculated based on actual hours that will be expended on each source category for activities that cover inspections, monitoring, and other regulatory activities.

SECTION-BY SECTION ANALYSIS

Rule 280, Section 200 – Definitions

This section adds terms used within this rulemaking. The terms "administrative fee" and "billable permit action" are used in this rulemaking to clarify for what types of activities the sources pay a fee. "Itemized invoice" refers to the information the County will include on the invoice. "Non-major title V source" refers specific group of synthetic minor sources that tend to be larger and more complex requiring additional time to process and inspect. "Regulated

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air pollutant” was moved from the text of the standards section to the definition section. The definitions for “existing source” and “Sources required to have a Title V Permit” were updated.

Rule 280, Section 300 – Standards

This section outlines the fee for each category of sources. Subsection 301 details fees for Title V sources. 301.1 details permit processing fees prescribing the hourly rate, at what point during the permitting process fees are due, and provides a cap for hourly fees. ADEQ reports the \$66 hourly rate was calculated by taking the total costs for processing the projected number of permit applications and dividing by the number of technical hours required to process those applications. The growth in hourly rate is the result of anticipated increased expenses for operating the permitting programs, including growth in base salaries and increased expenses from public notice and comment process. 301.2 details the administrative and emission fees charged annually. Emission fees are based on stack and some fugitive emissions. The rule proposes the ADEQ method for determining which fugitives count for emission fees and was based on stakeholder input: no PM₁₀ fugitives count unless they are in the four listed categories; all VOC fugitives count unless they are from a solution-extraction unit. To comply with A.R.S. § 49-480(D)(1), the administrative and emission fees would be adjusted annually based on the Consumer Price Index (CPI).

The following table illustrates what fees a Title V source would pay under the proposed rule.

TITLE V PERMIT FEES

Permit Action	Type of Fee	Fee	Payment Time
New Facility	Permit Processing	\$66/hour, no cap	Prior to permit issuance
	Annual Fees	Fixed Fee + \$11.75/ton, max 400 tons per pollutant, excluding certain fugitive emissions, no emissions already counted as VOC or PM ₁₀ , CO exempted	After initial start-up, every anniversary date for fixed fee and April 30th for emission fees
Existing Facility	Permit Processing (Renewals)	\$66/hour, no cap	Prior to issuance
	Annual Fees	Fixed Fee + \$11.75/ton, max 400 tons pr pollutant, excluding certain fugitive emissions, no emissions already counted as VOC or PM ₁₀ , Co exempted	Every anniversary date for fixed fee and April 30th for emission fees
Permit Revisions	Permit Processing	\$66/hour/no cap	Prior to issuance
Administrative Amendments, Changes per Rule 210, Subsection 403, Transfers	NO FEE		
General Permit	Permit Processing	Fixed Fee	Application Fee
	Annual Fee	Fixed Fee	Anniversary date of initial ATO approval

Subsections 302 and 303 detail fees for Non-Title V permits. The following tables illustrate what fees Non-Title V sources will be responsible to pay.

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Non-Title V Permit Fees

Permit Action	Type of Fee	Fee	Payment Time
New Facility	Permit Processing	Tables A-B \$66/hour, \$25,000 cap Tables C-E Fixed Fee	Application Fee and any balance due prior to permit issuance
	Annual Fees	Fixed Fee	After initial start-up, every anniversary date for fixed fee
Existing Facility	Annual Fees, include permit renewals	Fixed Fee	Every anniversary date for fixed fee
Permit Revisions	Permit Processing	Tables A-B \$66/hour, \$25,000 cap Tables C-E Fixed Fee	Application Fee and any balance due prior to issuance
Administrative Amendments, Changes per Rule 210, Subsection 403, Transfers	NO FEE		
General Permit	New Permit Processing	Fixed Fee	Application Fee
	Annual Fee, includes renewal fee	Fixed Fee	Anniversary date of initial ATO approval

Subsection 304 proposes to codify a provision for incremental increases in the fees as the Consumer Price Index changes. Subsection 305 describes how emission fees are calculated and paid. Changes propose the ADEQ method for determining which fugitives count for emission fees and were based on stakeholder input to the effect that no PM₁₀ fugitives count unless they are in the four listed categories; all VOC fugitives count unless they are from a solution-extraction unit. Sections 306-314 detail fees for hearing board filings, conditional orders, gasoline delivery vessels, permits to burn, earthmoving permits, asbestos notification and plan review filings, late fees, delinquencies, and subscriptions for rule mailing lists. These fees are not changed in this proposal. An accelerated permit processing provision is included in Section 315, proposing a filing fee of \$15,000, and basing the final fee on the actual cost. Section 316 provides the statutory references for failing to pay fees.

Rule 280, Section 400 – Administrative Requirements

Sections 401, 402 and 403 codify payment procedures, invoicing procedures, and include five tables of source categories.

6. Demonstration of compliance with A.R.S. § 49-112:

Based on information and belief, the Control Officer of the Maricopa County Environmental Services Department affirms the following:

- A. Maricopa County is in compliance with A.R.S. § 49-112(A) in that Maricopa County Environmental Services Department is proposing to adopt rules that are not more stringent than nor are in addition to a provision of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49.

Maricopa County fails to meet the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO), ozone and particulates. In addition, Maricopa County is the only ozone nonattainment area in Arizona. Maricopa County may adopt rules that are more stringent than the State pursuant to A.R.S. § 49-112 as enacted in

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1994, provided that the emission standard is required by law or is necessary and feasible to prevent a significant threat to public health or the environment that results from a unique local condition.

- B. Maricopa County is in compliance with A.R.S. § 49-112(B) in that Maricopa County Environmental Services Department is proposing to adopt rules that are as stringent as a provision of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49. The cost of obtaining permits or other approvals from Maricopa County will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under Title 49 or any rule adopted pursuant to Title 49.

7. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

1. "Draft Maricopa County's Workload and Resource Needs Analysis for Assessing Permit Fees," October 30, 2002

This document is available at:

Maricopa County Environmental Services Department
Air Quality Planning Section
1001 N. Central Avenue, Suite 695
Phoenix, AZ 85004
(602) 506-6705

2. "Draft Arizona's Workload and Resource Needs Analysis for Assessing Permitting Fees," January 26, 2000

This document is available at:

Arizona Department of Environmental Quality Library
1110 W. Washington
Phoenix, AZ 85007

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The preliminary summary of the economic, small business, and consumer impact:

This preliminary economic impact statement (EIS) was developed to estimate the incremental impact of this rule. This impact statement, comprised of potential costs and benefits, represents the probable "incremental" impact or the estimated costs and benefits above what currently is the status quo. Thus, it is not the total accumulation of costs and benefits, but the marginal costs and benefits possible under a new status quo once this rule is implemented.

This rule proposes to decrease the permit processing fee from \$70.00/hour to \$66.00/hour. In addition, the hourly rate would be adjusted annually for inflation beginning in 2004. Based on estimated workload hours for processing Title V and Non-Title V permits, permit processing revenues for new sources and permit amendments are expected to decrease by approximately \$34,900 annually (\$26,800 and \$8100, respectively for Title V and Non-Title V revenues).

Table 1 shows an estimate of average processing hours for Title V and Non-Title V permits by new sources and permit amendments categories. Note that general permits are not included because those processing fees are not proposed to be based upon an hour rate. Total projected costs were calculated at an hourly rate of \$66.00. To make the comparison equitable, the same number of hours was used to estimate the current fee level, except that an hourly rate of \$70.00 was used.

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Table 1. Proposed Fee Changes for Permit Processing of Title V (TV) and Non-Title V (NTV)

Sources: New Permits and Amendments*

Source Category	Total Average Time for Processing Permits (hours)	Projected Cost for New Sources Only (\$)	Total Fee Per Category (\$)
New sources TV	2374	\$156,684	\$156,684
Permit amendments TV	4324	NA	\$285,384
SUBTOTAL (TV)	6698	\$156,684	\$442,068
New sources NTV	1037	\$68,442	\$68,442
Permit amendments NTV	992	NA	\$65,472
SUBTOTAL (NTV)	2029	\$68,442	\$133,914
TOTAL (TV +NTV)	8727	\$225,126	\$575,982

*Projected costs based on an hourly rate of \$66.00.

Another significant change is how annual revenues would be generated from Title V sources. Under the proposed rule, the anticipated \$617,000 revenue would be generated from the revised annual fixed fee and the revised annual emissions fee. The annual fixed fee would increase substantially from current levels, but would remain the same or less than the ADEQ Title V fixed fees except for natural gas fired utilities and compressor stations. Fees for the two exceptions are not greater than ten percent more than the ADEQ applicable fixed fees. The proposed emissions fee of \$11.75/ton is identical to the ADEQ emissions fee. ADEQ indicated in their Notice of Final Rulemaking that this fee structure provides that approximately one-half of their anticipated \$1.6 million in annual revenues would be generated from annual fixed fees and the remainder from the annual emissions fees.

Table 2 lists 53 Title V sources distributed by source categories and their corresponding fees. Annual fixed fees, shown in the 3rd column, were calculated by source category. These fixed fees by source category range from a low of \$7,400 for reinforced plastics sources to \$11,200 for utilities primarily fueled by natural gas. Table 3 lists the same 53 Title V sources using the current annual fees.

Table 2. Proposed Annual Fees for Title V Permitted Sources*

Source Category	Number of Sources Per Category	Annual Fixed Fee Per Source¹ (\$)	Total Annual Fixed Fee Revenue Per Category (\$)	Annual Emissions Per Category² (tons)	Total Annual Emissions Fee Revenue Per Category³ (\$)	Total Annual Revenue Per Category (\$)
Aerospace	3	\$10,700	\$32,100	234	\$2,750	\$34,850
Combustion/ Boilers	3	\$9,600	\$28,800	264	\$3,102	\$41,502
Compressor Stations	1	\$8,700	\$8,700	0	0	\$8,700
Expandable Foam	2	\$9,600	\$19,200	177	\$2,080	\$30,880
Landfills	7	\$9,600	\$67,200	236	\$2,773	\$69,973

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Petroleum Products Terminal Facilities	1	\$10,800	\$10,800	45	\$529	\$11,329
Polymeric Fabric Coaters	1	\$9,700	\$9,700	82	\$964	\$10,664
Reinforced Plastics	5	\$7,400	\$37,000	371	\$4,359	\$48,759
Semiconductor Fabrication	0	\$10,800	0	0	0	0
Utilities – Primary Fuel Natural Gas	11	\$11,200	\$123,200	7013	\$82,397	\$227,997
Vitamin/ Pharmaceutical Manufacturing	1	\$7,600	\$7,600	32	\$376	\$7,976
Wood Furniture	11	\$7,800	\$85,800	1107	\$13,007	\$106,607
Others	7	\$9,900	\$69,300	449	\$5276	\$74,576
TOTAL	53		\$499,400	10,010	\$117,612	\$617,012

*Note this table does not reflect permit processing costs.

¹Fixed fees were generated using Excel and includes permit administration hours (by ratio) based on the WLA.

²Emissions tonnages were derived from calendar year 2000 emission inventory, except that utilities tonnages represent an average of 1998-2000 reports.

³Total emissions were calculated by multiplying emissions tonnage in column 5 by \$11.75 per ton.

Table 3. Current Annual Fees For Title V Sources*

Source Category	Number of Sources Per Category	Total Annual Fixed Fee Revenue Per Source Category¹ (\$)	Total Emissions Per Category² (annual tons)	Total Emissions Fee Revenue Per Source Category³ (\$)	Total Annual Revenue Per Category (\$)
Aerospace	3	\$7,500	234	\$8,628	\$16,128
Combustion/ Boilers	3	\$7,500	264	\$9,734	\$17,234
Compressor Stations	1	\$2,500	0	0	\$2,500
Expandable Foam	2	\$5,000	177	\$6,526	\$11,526
Landfills	7	\$17,500	236	\$8,701	\$26,201
Petroleum Products Terminal Facilities	1	\$2,500	45	\$1,659	\$4,159
Polymeric Fabric Coaters	1	\$2,500	82	\$3,023	\$5,523
Reinforced Plastics	5	\$12,500	371	\$13,679	\$26,179
Semiconductor Fabrication	0	0	0	0	0

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Utilities – Primary Fuel Natural Gas	11	\$27,500	7013	\$258,551	\$286,051
Vitamin/Pharmaceutical Manufacturing	1	\$2,500	32	\$1,180	\$3,680
Wood Furniture	11	\$27,500	1107	\$40,815	\$68,315
Others	7	\$17,500	449	\$16,555	\$34,055
TOTAL	53	\$132,500	10,010	\$369,050	\$501,550

*Excludes permit processing fees.

¹Total annual fixed fees were calculated by multiplying the number of source by the current fixed fee of \$2,500.

²Emissions tonnages were derived from calendar year 2000 emission inventory, except that utilities tonnages represent an average of 1998-2000 reports.

³Total emissions were calculated by multiplying emissions tonnage in column 5 by \$36.87 per ton.

Comparing Table 2 to Table 3, these same 53 sources would generate approximately \$115,500 more in annual total revenue under the proposed rule. This increase better reflects the actual cost attributable to Title V sources.

In addition to these changes for Title V sources, fees for Non-Title sources would increase under this proposed rule to better reflect the share of costs directly related Non-Title V sources. Tables 4 and 5 show that annual revenues from these sources would increase under the proposed scenario. Thus, Maricopa County expects annual revenue to increase from just over \$1.4 million to approximately \$2 million from Non-Title V sources. Most of the increases will impact the Table A and Table B sources. These tables include the high tech, aerospace and other sources requiring more time to regulate them. For the Table C-E sources the five year average fees would increase slightly (\$5) for Table C and decrease slightly for Table D and E.

Table 4. Proposed Annual Fees for Permitted Non-Title V

Source Category	Number of Sources Per Category	Annual Fixed Fee Per Source (\$)	Total Fee Per Category
Individual Permit Table A	181	\$3,100	\$561,100
Individual Permit Table B	321	\$1,300	\$417,300
Individual Permit Tables C-E	972	\$360	\$349,920
General Permit Table C	615	\$300	\$184,500
General Permit Table D	940	\$335	\$314,900
General Permit Table E	500	\$290	\$145,000
TOTAL	3529		\$1,972,720

Table 5. Current Fees for Permitted Non-Title V Sources

Source Category	Number of Sources Per Category	Annual Fixed Fee Per Source (\$)	Total Fee Per Category
Individual Permit Table A	181	\$650	\$117,650
Individual Permit Table B	321	\$650	\$208,650
Individual Permit Tables C-E	972	\$225	\$218,700
General Permit Table C	615	\$225	\$138,375
General Permit Table D	940	\$335	\$314,900
General Permit Table E	500	\$225	\$112,500
SUBTOTAL	3529		\$1,110,775
Annual Renewal Permit Processing Fees	1558 hours	\$66/hour	\$102,828
Annual Non-Title V Emission Fees	5478 tons	\$36.87/ton	\$210,971
TOTAL CURRENT FEES			\$1,424,574

Smaller sources indicated to the County that they struggle to pay the two separate fees due under the current fee system during the fifth year when the source renews its permit. As a result, the proposed annual fixed fees for Non-Title V sources combine one fifth of the permit renewal fee with the annual fixed fee so that sources would pay the same fee each year. For example, a Table C Non-Title V source would pay an annual fixed fee of \$300 under the proposed rule. Over the five year permit term under the existing system, the same source would pay an average fee of \$295 calculated by multiplying \$225 by 5 (annual fixed fee), adding \$350 (permit renewal processing fee), and dividing by 5.

Small Business Impact

As a result of the proposed changes, costs for the Title V and more complex Non-Title V small sources would increase to more accurately reflect the costs of administering these permits. In general, most of the County's Title V and Non-Title V sources in Tables A and B are smaller than the Non-Title V sources classified as sources in Tables C-E. The final economic, small business and consumer impact statement for this rule must contain a statement of probable impact of the rule on small businesses. "Small business" is defined in A.R.S. § 41-1001 as "a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations." Maricopa County specifically solicits input from sources that could be small businesses under this definition on the administrative and other costs required for compliance with the proposed rulemaking, and any other information relevant to the economic, small business, and consumer impact statement.

Reduction of Rule Impact on Small Businesses

A.R.S. § 41-1035 requires agencies to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rulemaking. The County considered each of the methods prescribed in A.R.S. §§ 41-1035 and 41-1055(B)(5)(c) for reducing the impact on small businesses. The methods to be considered are:

- (1) Establish less stringent compliance or reporting requirements in the small businesses.

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- (2) Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
- (3) Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
- (4) Establish performance standards for small businesses to replace design or operational standards in the rule.
- (5) Exempt small businesses from any or all requirements of the rule.

The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in item #2 of this preamble. The specific objectives are to:

- (1) Control the release into the atmosphere of air contaminants in order to control air pollution (A.R.S. § 49-479 (A)),
- (2) Implement a fee system for permitted sources under A.R.S. § 49-480(D), and
- (3) Ensure EPA approval of the fee system for Title V sources under 40 CFR 70 (see A.R.S. § 49-480(E)(1)).

Maricopa County has evaluated each of the five listed methods and has concluded that all of the methods that are legal and feasible have already been implemented. The statutory directive that permit fees be related to costs prohibits the County from basing permit fees on the size of the source.

10. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Jo Crumbaker, Air Quality Division
Address: 1001 N. Central Avenue, Suite #201
Phoenix, AZ 85004
Telephone: (602) 506-6705
Fax: (602) 506-6179
E-mail: jcrumbak@mail.maricopa.gov

11. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Oral Proceeding: December 5, 2002, 9:00 a.m.
Close of comment: December 6, 2002, 5:00 p.m.
Location: Maricopa County Environmental Services Department, Room 560, 1001 N. Central, Phoenix, AZ (Please call 602-506-6443 for special accommodations pursuant to the Americans with Disabilities Act.)
Nature: Public hearing with opportunity for formal comments on the record regarding the proposed rule and the submittal of the rules to the Environmental Protection Agency as a revision to the State Implementation Plan.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:

None

13. Incorporations by reference and their location in the rules:

40 CFR 60, Appendix F Rule 280, Section 305.1(a)(1)
40 CFR 75, and all accompanying appendices Rule 280, Section 305.1(a)(1)

14. The full text of the draft rules follows:

REGULATION II - PERMITS AND FEES

RULE 280

FEES

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MARICOPA COUNTY

AIR POLLUTION CONTROL REGULATIONS

REGULATION II - PERMITS AND FEES

RULE 280

FEES

~~SECTION 100 - GENERAL~~

- ~~101 PURPOSE:~~ To establish fees to be charged owners and operators of sources of air pollution subject to these rules.
- ~~102 APPLICABILITY:~~ Every person owning/operating equipment or engaged in activities which may cause or contribute to air pollution is subject to the prescribed fees in this rule.

SECTION 200 — DEFINITIONS: For the purpose of this rule, the following definitions shall apply:

201 EXISTING SOURCE—A source that has commenced construction and for which one of the following is true:

201.1Held a valid installation or operating permit as of September 1, 1993, or

201.2Has been issued a permit pursuant to A.R.S. § 49-480C after September 1, 1993.

202 SOURCES REQUIRED TO OBTAIN A TITLE V PERMIT—The following sources shall be considered to be required to obtain a Title V permit:

202.1Any source required to have a Title V permit under these rules;

202.2Any source that qualifies for a Non Title V permit pursuant to being listed in Rule 200, Section 302 of these rules but that elects to apply for a Title V permit.

SECTION 300 — STANDARDS

301 TITLE V PERMIT FEES: The owner or operator of a source required to obtain a Title V permit shall pay fees to the Control Officer according to the following provisions:

301.1An applicant for a permit to construct and operate a source required to obtain a Title V permit pursuant to these rules shall pay to the Control Officer a fee representing the total actual cost of reviewing and acting on the application. The minimum fee chargeable pursuant to this subsection and due with the application shall be \$7000.00 and the maximum fee shall be \$40,000. At any time after submittal of the application, the Control Officer may request an additional application fee based on the cost to date of reviewing and acting on the application, minus any application fee remitted. Before issuance of a permit to construct and operate a source, an applicant shall pay to the Control Officer a fee billed by the Control Officer representing the total actual cost of reviewing and acting upon the application minus any application fee remitted.

301.2Each existing source required to have a Title V permit shall pay annual fees equal to \$31.00 per year per ton of actual emissions of regulated air pollutants calculated pursuant to Section 304 of this rule plus an annual permit processing and inspection fee of \$2500.00 per year.

301.3An applicant for a permit revision pursuant to Rule 210, Sections 405 and 406, or the transfer of a permit pursuant to Rule 200, Section 404, at the time the application or notice is submitted, shall pay a fee as follows:

- a. \$10,000.00 for a significant permit revision that is the result of a major modification.
- b. \$1,500.00 for any other significant permit revision.
- c. \$300.00 for a minor permit revision.
- d. \$250.00 for a permit transfer.
- e. \$120.00 for an administrative permit amendment.

301.4Before the issuance of a permit revision pursuant to Rule 210, Sections 405 and 406, the applicant for the permit revision shall pay a fee billed by the Control Officer representing the total actual cost of reviewing and acting upon the application or notice, minus any application fee remitted.

301.5Each source required to have a Title V permit pursuant to these rules shall pay a performance test fee of \$640.00 for any year during which such test will be performed.

302 NON TITLE V PERMIT FEES: The owner or operator of a source required to obtain a Non Title V permit pursuant to these rules shall pay fees to the Control Officer according to the following provisions:

302.1An applicant for a permit to construct and operate a source required to obtain a Non Title V permit pursuant to these rules shall pay to the Control Officer a fee representing the total actual cost of reviewing and acting on the application for a facility listed in Table A (Section 402.1 of this rule) or a fee of \$350.00 for a facility listed in Table B (Section 402.2 of this rule). A nonrefundable sum of \$160.00 shall be due with the application. At any time after the submittal of an application for a facility listed in Table A, the Control Officer may request an additional application fee based on the cost to date of reviewing and acting on the application, minus any application fee remitted. Subsequent to the issuance of the permit, the source shall be subject to the applicable annual fees pursuant to Section 303 of this rule. Before issuance of a permit to construct and operate a source, an applicant shall pay to the Control Officer a fee billed by the Control Officer representing the total actual cost of reviewing and acting upon the application minus any application fee remitted.

302.2Each source listed in Table A (Section 402.1 of this rule) required to have a Non Title V permit shall pay annual fees equal to \$31.00 per year per ton of actual emissions of regulated air pollutants calculated pursuant to Section 304 of this rule plus an annual permit processing and inspection fee of \$650.00 per year.

302.3Each source, other than Stage I Vapor Recovery Sources, listed in Table B (Section 402.2 of this rule) required to have a Non Title V permit shall pay annual fees equal to \$31.00 per year per ton of actual emissions of regulated air pollutants calculated pursuant to Section 304 of this rule plus an annual permit processing and inspection fee of \$225.00 per year.

302.4Each Stage I Vapor Recovery Sources listed in Table B (section 402.2 of this rule) required to have a Non Title V permit shall pay annual fees equal to \$31.00 per year per ton of actual emissions of regulated air pollutants cal-

culated pursuant to Section 304 of this rule plus an annual permit processing and inspection fee of \$335.00 per year.

302.5 An applicant for a permit modification pursuant to Rule 220, Sections 404 through 406 of these rules, or the transfer of a permit pursuant to Rule 200, Section 404 of these rules, at the time the application or notice is submitted, shall pay a fee as follows:

- a. \$750.00 for a non-minor permit revision for sources listed in Table A (Section 402.1 of this rule).
- b. \$225.00 for a non-minor permit revision for sources listed in Table B (Section 402.2 of this rule).
- c. \$225.00 for a minor permit revision.
- d. \$70.00 for an administrative permit amendment.
- e. \$200.00 for a permit transfer.

302.6 Before the issuance of a permit revision pursuant to Rule 220, Sections 405 and 406, the applicant for the permit revision shall pay a fee billed by the Control Officer representing the total actual cost of reviewing and acting upon the application or notice, minus any application fee remitted.

302.7 Each source requiring a performance test shall pay a performance test fee of \$450.00 for any year during which such test will be performed.

302.8 The maximum fee chargeable to this subsection shall be \$25,000.

303 GENERAL PERMIT FEES: The owner or operator of a source required to obtain a permit pursuant to these rules covered by a general permit shall pay fees to the Control Officer according to the following provisions:

303.1 An applicant for a permit to construct and operate a source applying for coverage under a general permit issued pursuant to Rule 230 of these rules shall pay to the Control Officer an application processing fee of \$650.00 for a facility listed in Table A (Section 402.1 of this rule) and \$225.00 for a source listed in Table B (Section 402.2 of this rule). A sum of \$160.00 shall be due with the application. Before issuance of a permit to construct and operate a source, an applicant shall pay to the Control Officer a fee billed by the Control Officer representing the remaining application review fees.

303.2 Each source listed in Table A (Section 402.1 of this rule) covered by a general permit shall pay annual fees equal to \$31.00 per year per ton of actual emissions of regulated air pollutants calculated pursuant to Section 304 of this rule plus an annual permit processing and inspection fee of \$650.00 per year.

303.3 Each source, other than Stage I Vapor Recovery Sources, listed in Table B (Section 402.2 of this rule) covered by a general permit shall pay annual fees equal to \$31.00 per year per ton of actual emissions of regulated air pollutants calculated pursuant to Section 304 of this rule plus an annual permit processing and inspection fee of \$225.00 per year.

303.4 Each Stage I Vapor Recovery Source listed in Table B (Section 402.2 of this rule) covered by a general permit shall pay annual fees equal \$31.00 per year per ton of actual emissions of regulated air pollutants calculated pursuant to Section 304 of this rule plus an annual permit processing and inspection fee of \$335.00 per year.

303.5 Each source requiring a performance test shall pay a performance test fee of \$450.00 for any year during which such test will be performed.

304 CALCULATION OF EMISSION FEES: The owner or operator of each source required to obtain a Title V permit pursuant to these rules shall pay an annual emission fee equal to \$31.00 per year per ton of actual emissions of regulated air pollutants (rounded to the nearest ton). If a source required to obtain a Non Title V permit or a General Permit pursuant to these rules emits an aggregate of five tons per year or more of all regulated air pollutants, the owner or operator of such source shall pay an annual emission fee equal to \$31.00 per ton of actual emissions of regulated air pollutants (rounded to the nearest ton).

304.1 For purposes of this subsection, actual emissions means the actual quantity of regulated air pollutants emitted over the preceding calendar year or any other period determined by the Control Officer to be representative of normal source operations, determined as follows:

- a. Emissions quantities, including fugitive emissions, reported pursuant to Rule 100, Section 507 or pursuant to an emissions inventory required prior to the effective date of Rule 100, Section 507 shall be used for purposes of calculating the permit fee to the extent they are calculated in a manner consistent with this paragraph. Acceptable methods for calculating actual emissions pursuant to Rule 100, Section 500 include the following:
 - (1) Emissions estimates calculated from continuous emissions monitors certified pursuant to 40 CFR Part 75, Subpart C and referred appendices, as published in the Federal Register on January 11, 1993 (and no later editions) which is incorporated herein by reference, and is on file with the Control Officer, or data quality assured pursuant to Appendix F of 40 CFR, Part 60.
 - (2) Emissions estimates calculated from source performance test data.
 - (3) Emissions estimates calculated from material balance using engineering knowledge of process.
 - (4) Emissions estimates calculated using AP 42 emissions factors.

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

- ~~(5) Emissions estimates calculated by equivalent methods approved by the Control Officer. The Control Officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in items (1) through (4) of this paragraph.~~
- ~~b. Actual emissions shall be determined for each source on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.~~
- 304.2** For purposes of this section, regulated air pollutants consist of the following:
- ~~a. Nitrogen oxides or any volatile organic compounds.~~
 - ~~b. Conventional air pollutants, except carbon monoxide.~~
 - ~~c. Any pollutant that is subject to any standard promulgated under Section 111 of the Act (Standards of Performance for New Stationary Sources), including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur and reduced sulfur compounds.~~
 - ~~d. Any federally listed hazardous air pollutant that is subject to a standard promulgated by the Administrator under Section 112 of the Act (Hazardous Air Pollutants) or other requirement established under Section 112 of the Act, including Sections 112(g) and (j) of the Act. Federally listed hazardous air pollutants subject to requirements established under Section 112 of the Act include the following:~~
 - ~~(1) Any pollutant subject to requirements under Section 112(j) of the Act (Hazardous Air Pollutants). If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be considered major under Section 112(a)(1) of the Act shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act.~~
 - ~~(2) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Hazardous Air Pollutants) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.~~
- 304.3** The following emissions of regulated pollutants shall be excluded from a source's actual emissions for purposes of this section:
- ~~a. Emissions of a regulated pollutant from the source in excess of 4,000 tons per year.~~
 - ~~b. Emissions of any regulated pollutant that are already included in the fee calculation for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀.~~
 - ~~c. Emissions from insignificant activities excluded from the permit for the source pursuant to Rule 210.~~
- 304.4** A notice to pay the fee specified in this subsection and a declaration of emissions form will be mailed annually to the owner or operator of a source to which this subsection applies with the annual emission inventory questionnaire. The fee is due and payable by April 30 each year or by the ninetieth (90th) day following the date of notice.
- 304.5** Beginning in 1995, the \$31.00 per ton per year fee shall be adjusted each year on January 1 to reflect the increase, if any, by which the Consumer Price Index for the most recent year exceeds the Consumer Price Index for year ending in 1993. The Consumer Price Index for any year is the average of the Consumer Price Index for all urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each year.
- 305 HEARING BOARD FILING FEE:** A \$100.00 fee shall be charged for filing a petition with the Hearing Board. This fee may be refunded by a majority vote of the Hearing Board upon a showing of undue hardship.
- 306 CONDITIONAL ORDER FEE:** Any person applying for a conditional order shall pay a conditional order fee. The amount of a conditional order fee shall be equal to the amount of the applicable permit fee as specified in this rule.
- 307 GASOLINE DELIVERY VESSEL FEE:** An annual certification fee of \$115.00 shall be charged for each gasoline delivery vessel required to be leak tested by Rule 352 of these rules.
- 308 PERMIT TO BURN FEE:** Permits to Burn shall be issued for open outdoor fires that are approved by the Control Officer in accordance with Rule 314 of these rules. An applicant for a Permit to Burn shall pay a fee as set forth in the following fee schedule:

<u>Fire Category</u>	<u>Permit Period</u>	<u>Fee</u>
Tumbleweeds	30 days	\$50.00
Fire Hazard	30 days	\$50.00
Fire Fighting Instruction	1 year	\$50.00
Ditch Bank/Fence Row	1 year	\$50.00
Disease/Pest Prevention	30 days	\$62.00
Land Clearance	30 days	
Less than 5.0 acres		\$74.00

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

5.0 acres or greater		\$144.00
Air Curtain Destructor	30 days	\$249.00

309 EARTH MOVING PERMIT FEE: This schedule includes any power or mechanical equipment used to clear, excavate or level land, including but not limited to demolition, road and street construction, trenching or any other earth moving activity. An applicant for an Earth Moving Permit shall pay an annual fee as set forth in the following fee schedule, based on the total surface area that is disturbed:

<u>Total Surface Area Disturbed</u>	<u>Fee</u>
Annual Block Permit	\$2000.00
0.1 to less than one acre	\$75.00
One acre or greater	\$36.00 per acre plus \$110.00
Example: 6 acres = 6 x \$36.00 + \$110 = \$326	

310 ASBESTOS NOTIFICATION AND PLAN REVIEW FILING FEE: Any person required to file notification pursuant to the provisions of Rule 370 of these rules shall pay a fee as follows:

310.1 Any person filing notification of a project to renovate regulated asbestos-containing materials shall pay a nonrefundable notification and plan review filing fee of \$425.00.

310.2 Any person filing notification of a project to demolish a facility (as defined in 40 CFR 61, Subpart M) shall pay a nonrefundable notification and plan review filing fee of \$425.00.

311 HOURLY RATE: For the purposes of Sections 301 and 302, the hourly rate applied for all direct hours spent processing the permit shall be \$70.00 per hour.

312 LATE FEE: The following fees shall be assessed in addition to all other applicable fees:

312.1 TITLE V, NON TITLE V OR GENERAL PERMIT: An applicant for a required permit for a source that has been constructed without such permit and who has received a Notice of Violation shall pay a late fee of \$70.00.

312.2 EARTH MOVING PERMIT: Any person who has begun earth moving activity without an Earth Moving Permit and has received a Notice of Violation for operating the earth moving equipment without an Earth Moving Permit shall pay a late fee of \$70.00.

313 DELINQUENCY FEE: Any applicant or permittee who fails to pay any required fee(s) within 30 days of billing shall pay a delinquency fee of \$35.00 or a delinquency fee of \$70.00 if delinquent over 60 days from the date of billing. Applicants and permittees shall be notified by mail of any permit delinquency fees that are due and payable.

314 SUBSCRIPTION FEE FOR RULE REVISIONS: A person requesting to be placed on a mailing list to receive copies of new and revised rules shall pay to the Control Officer an annual subscription fee of \$35.00.

315 ACCELERATED PERMIT PROCESSING: An applicant requesting accelerated permit processing shall pay fees to the Control Officer according to the following provisions:

315.1 Such a request shall be accompanied by the standard application fees as described in this rule, plus an additional payment of 50 percent of those fees, which shall be nonrefundable, if the Control Officer undertakes to provide accelerated processing as described in Rule 200, Section 313 of these rules.

315.2 At any time after an applicant has requested accelerated permit processing, the Control Officer may request an additional advance payment fee based on the most recent estimated cost of accelerating the processing of the application.

315.3 Before issuing a permit or permit revision pursuant to Rule 200, Section 313 of these rules, the applicant shall pay to the Control Officer all regular permit processing and other fees due, and the difference between the actual cost of accelerating the permit application, including any costs incurred by the Control Officer in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted. If an additional payment is required, the Control Officer shall provide an accounting of the actual cost of accelerating the permit application, at the request of the applicant.

315.4 Any additional costs incurred as a result of accelerated permit processing shall not be applied toward any applicable maximum fee described in this rule.

SECTION 400—ADMINISTRATIVE REQUIREMENTS

401 PAYMENT OF FEES:

401.1 At least 30 days before the anniversary date of a Title V, Non Title V or General Permit issued pursuant to these rules, the owner or operator of the source will be notified by mail of the annual permit processing and inspection fee to be paid and the due date.

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

~~401.2~~ Gasoline delivery vessel fee shall be paid at the time the application is submitted showing satisfactory test results prior to the issuance of the sticker required in the provisions of Rule 352.

~~401.3~~ Asbestos removal notification and plan review filing fee shall be paid at the time the notification is submitted. The notification is not considered filed until the appropriate filing fee is paid.

~~401.4~~ Other fees shall be paid in the manner and at the time notified.

~~402~~ **TABLE A AND TABLE B SOURCES:** For processes and equipment not listed below, the Control Officer will designate either Table A or Table B applicability.

~~402.1~~ **Table A Sources:**

Aggregate Production/Crushing, All

Aggregate Screening

Aircraft Manufacturing

Animal Feed Processing

Asphalt Batching

Auto Body Shredding

Table A Sources Continued:

Bulk Terminal

Cement Products Packaging

Chemical Processing, Dry

Chemical Processing, Liquid

Circuit Board Processing

Coating Line, Can/Coil/Fabric/Film/Glass/Paper

Concrete Batching

Concrete Products Manufacturing

Cotton Ginning

Cotton Seed Processing

Crematory

Cultured Marble

Ethylene Oxide Sterilization

Extrusion

Fiberglass Product Manufacturing

Flour Milling

Foundry

Furnace, Metals

Furnace, Burn-Off

Furnace, Electric Arc

Furnace, Other

Gas Turbine, All

Grain Cleaning/Processing

Grain Storage

Gypsum, Calcining

Incinerator, Medical Waste

Incinerator, Other

Insulation Manufacturing

Internal Combustion Engine, Cogeneration

Jet Engine Manufacturing

Miscellaneous Air Polluting Equipment

Pesticide/Herbicide Production

Pharmaceutical Manufacturing

Pipeline Transmission Facilities

Plating Tanks

Printing Presses, 25 Tons Per Year Potential Uncontrolled VOC Emissions or Facilities With Controls

Rendering

Rubber Products Manufacturing

Semiconductor Manufacturing

Soil Treatment

Solvent Degreasing Unit/System, Solvent Use ³³ Gallons Per Day

Solvent Reclaiming

Stage I Vapor Recovery, Bulk Plants Other Than Shown in Table B

Stripping Operations
Tennis Ball Manufacturing
Vegetable Oil Extraction
~~Table A Sources Continued:~~
Wood Treating

~~402.2~~**Table B Sources:**

Abrasive Blasting
Asphalt Day Tanker/Kettle
Cement Products Packaging
Dry Cleaning
Fertilizer, Packaging, Mixing and Handling
Fuel Burning
Incinerator, Paper and Cardboard Products
Internal Combustion Engine, All
Miscellaneous Solvent Use at a Premise
Petroleum Storage, Non-retail
Printing Presses, <25 Tons Per Year Potential Uncontrolled VOC Emissions and With No Controls
Solvent Cleaning, <3 Gallons Per Day
Spray Coating
Stage I Vapor Recovery, Bulk Plant Loading Facilities as Defined by Rule 351, Section 305.1
Stage I Vapor Recovery, Service Station and larger Non-resale Dispensing Operations
~~Non-resale Dispensing Operations exempted from Stage I Vapor Recovery by Rule 353, Section 303.2~~
Storage Tanks, Non-Petroleum

SECTION 100 - GENERAL

101 PURPOSE: To establish fees to be charged to owners and operators of sources of air pollution subject to these rules.

102 APPLICABILITY: Every person owning/operating equipment or engaged in activities which may cause or contribute to air pollution is subject to the prescribed fees in this rule.

SECTION 200 - DEFINITIONS: For the purpose of this rule, the following definitions shall apply:

201 ANNUAL ADMINISTRATIVE FEE - Paid annually by a source to recover the average cost of services required to administer the permit and conduct inspections.

202 BILLABLE PERMIT ACTION - The review, issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.

204 EXISTING SOURCE - A source that has commenced construction and has been issued a permit pursuant to A.R.S. § 49-480 after September 1, 1993.

204 ITEMIZED INVOICE - A breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive (technical) review, and public involvement activities, and within each category, a further breakdown by employee name.

205 NON-MAJOR TITLE V SOURCE - A source required to obtain a Non-Title V permit under Rule 200 to which both of the following apply:

205.2 The source is classified as a Synthetic Minor Source.

205.2 The source has a permit that contains allowable emissions greater than or equal to 50% of the major source threshold.

206 REGULATED AIR POLLUTANT - For the purposes of Section 305, consists of the following air pollutants:

206.1 Any conventional air pollutant as defined in A.R.S. § 49-401.01, which means any pollutant for which the Administrator of EPA has promulgated a primary or a secondary national ambient air quality standard (NAAQS) except carbon monoxide (i.e., for nitrogen oxides (NO_x), lead, sulfur oxides (SO_x) measured as sulfur dioxides (SO₂), ozone, and particulates).

206.2 Nitrogen oxides (NO_x) and volatile organic compounds (VOCs).

206.3 Any air contaminant that is subject to a standard contained in Rule 360 (New Source Performance Standards) of these rules or promulgated under Section 111 (Standards Of Performance For New Stationary Sources) of the Act.

206.4 Any hazardous air pollutant (HAP) as defined in A.R.S. § 49-401.01 or listed in Section 112(b) (Hazardous Air Pollutants; List Of Pollutants) of the Act.

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

206.5 Any Class I or II substance listed in Section 602 (Stratospheric Ozone Protection; Listing Of Class I And Class II Substances) of the Act.

207 SOURCES REQUIRED TO HAVE A TITLE V PERMIT - The following sources shall be considered sources required to have a Title V permit:

207.1 Any source required to have a Title V permit under Rule 200, Section 302;

207.1 Any source that qualifies for a Non-Title V permit but that elects to have a Title V permit under Rule 200, Section 302.

SECTION 300 - STANDARDS

301 TITLE V PERMIT FEES: The owner or operator of a source required to have a Title V permit shall pay fees according to the following provisions:

301.1 Fees for Billable Permit Actions: The owner or operator of a Title V source shall pay \$66.00 per hour, adjusted annually under Section 304, for all permit processing time required for a billable permit action. The fee shall be paid as follows:

a. An application shall be submitted with the applicable fee from the table below:

Type of Application	Application Fee
New permit application	\$7,000
Significant permit revision application that is a result of a major modification	\$7,000
Other significant permit revision applications	\$1,000
Minor permit revision application	\$150
Permit renewal application	\$3,500

b. At any time after submittal of the application, the Control Officer may request additional application fees based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.

c. When permit processing is completed for a facility, the Control Officer shall send an itemized invoice. The invoice shall indicate the total actual cost of reviewing and acting upon the application, all fees previously submitted, and the balance due.

d. The Control Officer shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full.

301.2 Annual Fees: The owner or operator of a Title V source shall pay an annual administrative fee plus an emissions-based fee as follows:

a. The applicable annual administrative fee from the table below, as adjusted annually under Section 304. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date.

Title V Source Category	Annual Administrative Fee
Aerospace	\$10,700
Cement Plants	\$39,500
Combustion/Boilers	\$9,600
Compressor Stations	\$8,700

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

Expandable Foam	\$9,600
Landfills	\$9,600
Lime Plants	\$37,000
Copper & Nickel Mines	\$9,300
Gold Mines	\$9,300
Paper Mills	\$12,700
Petroleum Products Terminal Facilities	\$10,800
Polymeric Fabric Coaters	\$9,700
Reinforced Plastics	\$7,400
Semiconductor Fabrication	\$10,800
Copper Smelters	\$39,500
Utilities – Primary Fuel Natural Gas	\$11,200
Utilities - Fossil Fuel Except Natural Gas	\$20,200
Vitamin/Pharmaceutical Manufacturing	\$7,600
Wood Furniture	\$7,800
Others	\$9,900
Others with Continuous Emissions Monitoring	\$12,700

- b. An emissions-based fee of \$11.75 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year as determined by the Section 305. The fee is adjusted annually under Section 304.

302 NON-TITLE V PERMIT FEES: The owner or operator of a source required to have a Non-Title V permit under Rule 200, Section 303 shall pay fees according to the following provisions:

302.1Fees for Billable Permit Actions: Except for the renewal of an existing permit, the owner or operator of a Non-Title V source listed in Table A (subsection 403.1) or Table B (subsection 403.2) shall pay to the Control Officer \$66.00 per hour, adjusted annually under Section 304 of this rule, for all permit processing time required for a billable permit action. The owner or operator of a Non-Title V source facility listed in Table C, D, or E (subsection 403.3-5) shall pay the applicable fees from the table in subsection 302.1(a) below for a billable permit action. The fee shall be paid as follows:

- a. An application shall be submitted with the applicable fee from the table below:

Type of Application	Application Fee
New permit application	\$350
Non-minor permit revision application	\$350
Minor permit revision application	\$150
Permit renewal application	Not required

- b. At any time after the submittal of an application for a facility listed in Table A or Table B, the Control Officer may request an additional application fee based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

- c. When permit processing is completed for a facility listed in Table A and Table B and final costs are greater than the fee submitted with the application under subsection 302.1(a), the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing and acting upon the application, all fees previously submitted, and the balance due.
- d. The maximum fee for processing permit applications listed in subsection 302.1 is \$25,000.00.
- e. The Control Officer shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full.

302.2 Annual Fees: The owner or operator of an existing Non-Title V source shall pay the applicable annual administrative fee from the table below, as adjusted annually under Section 304. The annual administrative fee covers the cost of renewing a Non-Title V permit. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date.

Non-Title V Source Type	Annual Administrative Fee
Source listed in Table A	\$3,100
Source listed in Table B	\$1,300
Source listed in Table C	\$360

303 GENERAL PERMIT FEES: The owner or operator of a source required to obtain a permit pursuant to these rules who elects to be covered by a general permit shall pay fees according to the following provisions:

303.1 Fees Due with an Application: The owner or operator of a source initially applying for authorization to operate under a General Permit shall pay the applicable fee from the table below with the submittal of the application. Source categories designated as Tables A-E are listed in subsections 403.1-5 of this rule.

Source Category Table	Application Fee
Title V General Permits	Administrative Fee from Title V table for category
Table A	\$3,000
Table B	\$1,000
Table C	\$300
Table D	\$335
Table E	\$290

303.2 Annual Fee: The owner or operator of a source with an authorization to operate under a General Permit shall pay the applicable annual administrative fee from the table below, as adjusted annually under Section 304. The annual administrative fee covers the cost of reapplying for authorization to operate under a General Permit. The fee is due on the first anniversary date of the initial approval to operate under a General Permit and annually thereafter on that date. Source categories designated as Tables A-E are listed in subsections 403.1-5

Source Category Table	Administrative & Permit Renewal Fee
Title V General Permits	Administrative Fee from Title V table for category
Table A	\$3,000
Table B	\$1,000
Table C	\$300

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

Table D	\$335
Table E	\$290

304 ANNUAL ADJUSTMENT OF FEES:

304.1The Control Officer shall adjust the hourly rate every January 1, to the nearest ten cents per hour, beginning on January 1, 2003, by multiplying the \$66.00 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001.

304.2The Control Officer shall adjust the administrative or permit processing fees listed in Sections 301-303 every January 1, to the nearest \$10, beginning on January 1, 2003, by multiplying the administrative or permit processing fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001.

304.3The Control Officer shall adjust the rate for emission-based fees every January 1, beginning on January 1, 2003, by multiplying \$11.75 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001.

304.4The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

305 CALCULATION AND PAYMENT OF EMISSION FEES:

305.1For purposes of this subsection, actual emissions means the actual quantity of regulated air pollutants emitted over the preceding calendar year or any other period determined by the Control Officer to be representative of normal source operations, determined as follows:

- a. Emissions quantities, including fugitive emissions, reported under Rule 100, Section 500 shall be used for purposes of calculating the permit fee to the extent they are calculated in a manner consistent with this paragraph. Acceptable methods for calculating actual emissions under Rule 100, Section 500 include the following:
 - (1) Emissions estimates calculated from continuous emissions monitors certified under 40 CFR Part 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR, Part 60. 40 CFR Part 75 and referenced appendices and 40 CFR Part 60 Appendix F adopted as of July 1, 2001, (and no future additions) are incorporated by reference.
 - (2) Emissions estimates calculated from source performance test data.
 - (3) Emissions estimates calculated from material balance using engineering knowledge of process.
 - (4) Emissions estimates calculated using AP-42 emissions factors.
 - (5) Emissions estimates calculated by equivalent methods approved by the Control Officer. The Control Officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in items (1) through (4) of this paragraph.
- b. Actual emissions shall be determined for each source on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.

305.2The following emissions of regulated air pollutants shall be excluded from a source's actual emissions for purposes of this section:

- a. Emissions of a regulated air pollutant from the source in excess of 4,000 tons per year.
- b. Emissions of any regulated air pollutant that are already included in the fee calculation for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀.
- c. Emissions from insignificant activities excluded from the permit for the source under Rule 210.
- d. Fugitive emissions of PM₁₀ from activities other than crushing, belt transfers, screening, or stacking.
- e. Fugitive emissions of VOC from solution-extraction units.

305.3A notice to pay the fee specified in subsection 301.2.b. and a declaration of emissions form will be mailed annually to the owner or operator of a source to which this subsection applies, along with the annual emission inventory questionnaire. The emission fee is due and payable by April 30 each year or by the ninetieth (90th) day following the date of notice, whichever is later.

306 HEARING BOARD FILING FEE: A person filing a petition with the Hearing Board shall pay a fee of \$100.00. This fee may be refunded by a majority vote of the Hearing Board upon a showing of undue hardship.

307 CONDITIONAL ORDER FEE: Any person applying for a conditional order pursuant to Rule 120 shall pay a conditional order fee. The amount of a conditional order fee shall be equal to the amount of the applicable permit fee as specified in this rule.

308 GASOLINE DELIVERY VESSEL FEE: A person wishing to obtain a decal for each gasoline delivery vessel that passes the required annual test under Rule 352 shall pay a fee of \$115.00.

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

309 PERMIT TO BURN FEE: A person applying for a Permit to Burn shall pay a fee as set forth in the following fee schedule:

<u>Fire Category</u>	<u>Permit Period</u>	<u>Fee</u>
Tumbleweeds	30 days	\$50.00
Fire Hazard	30 days	\$50.00
Fire Fighting Instruction	1 year	\$50.00
Ditch Bank/Fence Row	1 year	\$50.00
Disease/Pest Prevention	30 days	\$62.00
Land Clearance	30 days	
Less than 5.0 acres		\$74.00
5.0 acres or greater		\$144.00
Air Curtain Destructor	30 days	\$249.00

310 EARTH MOVING PERMIT FEE: A person applying for an Earth Moving Permit shall pay an annual fee as set forth in the following fee schedule, based on the total surface area that is disturbed:

<u>Total Surface Area Disturbed</u>	<u>Fee</u>
Annual Block Permit	\$2000.00
0.1 to less than one acre	\$75.00
One acre or greater	\$36.00 per acre plus \$110.00
Example: 6 acres = 6 x \$36.00 + \$110 = \$326	

311 ASBESTOS NOTIFICATION AND PLAN REVIEW FILING FEE: Any person required to file notification under the provisions of Rule 370 of these rules shall pay a fee as follows:

311.1Any person filing notification of a project to renovate regulated asbestos-containing materials shall pay a nonrefundable notification and plan review filing fee of \$425.00.

311.2Any person filing notification of a project to demolish a facility (as defined in 40 CFR 61, Subpart M) shall pay a nonrefundable notification and plan review filing fee of \$425.00.

312 LATE FEE: The Control Officer shall assess the following fees in addition to all other applicable fees:

312.1**TITLE V, NON-TITLE V OR GENERAL PERMIT:** An applicant for a required permit for a source that has been constructed without such permit and who has received a Notice of Violation shall pay a late fee of \$70.00.

312.2**EARTH MOVING PERMIT:** Any person who is conducting earth moving activity without an Earth Moving Permit and has received a Notice of Violation for operating the earth moving equipment without an Earth Moving Permit shall pay a late fee of \$70.00.

313 DELINQUENCY FEE: An applicant or permittee who fails to pay any required fee(s) by 30 days after invoice due date shall pay a delinquency fee of \$35.00 or a delinquency fee of \$70.00 if delinquent over 60 days from the invoice due date. Applicants and permittees will be notified by mail of any permit delinquency fees that are due and payable.

314 SUBSCRIPTION FEE FOR RULE REVISIONS: A person requesting to be placed on a mailing list to receive copies of new and revised rules shall pay to the Control Officer an annual subscription fee of \$35.00.

315 ACCELERATED PERMIT PROCESSING: An applicant requesting accelerated permit processing shall pay fees to the Control Officer according to the following provisions:

315.1Such a request shall be accompanied by an initial fee of \$15,000. The fee is nonrefundable to the extent of the Control Officer's costs for accelerating the processing if the Control Officer undertakes to provide accelerated processing as described in Rule 200, Section 313 of these rules.

315.2At any time after an applicant has requested accelerated permit processing, the Control Officer may request an additional advance payment fee based on the most recent estimated cost of accelerating the processing of the application.

315.3Upon completion of permit processing activities but before issuing or denying a permit or permit revision, the Control Officer shall send notice of the decision to the applicant along with a final invoice. The final invoice shall include all regular permit processing and other fees due, as well as the difference between the actual cost of accelerating the permit application, including any costs incurred by the Control Officer in contracting for, hiring,

or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the Control Officer shall refund the excess advance payments.

315.4 Any additional costs incurred as a result of accelerated permit processing shall not be applied toward any applicable maximum fee described in this rule.

316 FAILURE TO PAY REQUIRED FEES: Nonpayment of fees required by this rule constitutes a violation as provided in A.R.S. §§ 49-502, 49-511, and 49-513.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 TRANSITION TO REVISED FEES: The revised fees in this rule shall become effective (the first of the month 90 days after date of adoption).

402 PAYMENT OF FEES: All fees required by this rule shall be payable to Maricopa County Environmental Services Department.

402.1 Annual Administrative Fees:

a. **Title V and Non-Title V Permits:** The Control Officer shall mail the owner or operator of a Title V or Non-Title V source an invoice for the annual administrative fee due under subsections 301, 302, and 303 at least 30 days prior to the anniversary date of the permit.

b. **General Permits:** The Control Officer shall mail the owner or operator of source authorized to operate under a General Permit an invoice for the annual administrative fee due under subsection 303 at least 30 days prior to the anniversary date of the authorization to operate.

402.2 Gasoline Delivery Vessel Decal Fee: Gasoline delivery vessel decal fee shall be paid at the time the application is submitted showing satisfactory test results prior to the issuance of the sticker required in the provisions of Rule 352.

402.3 Asbestos Removal Notification and Plan Review Fee: The asbestos removal notification and plan review filing fee shall be paid at the time the notification is submitted. The notification is not considered filed until the appropriate filing fee is paid.

402.4 Other Fees: Other fees shall be paid in the manner and at the time required by the Control Officer.

403 TABLE A, TABLE B, TABLE C, TABLE D, AND TABLE E SOURCES: For processes and equipment not listed below, the Control Officer will designate either Table A, Table B, Table C, Table D, or Table E applicability.

403.1 Table A Sources:

Aircraft Manufacturing
Chemical Manufacturing, Dry
Chemical Manufacturing, Liquid
Circuit Board Manufacturing 5 Tons per Year VOC
Coating Line, Can/Coil/Fabric/Film/Glass/Paper
Ethylene Oxide Sterilization
Gypsum, Calcining
Hot Mix Asphalt Plant
Incinerator, Medical Waste
Incinerator, Hazardous Material
Insulation Manufacturing
Jet Engine Manufacturing
Non-Major Title V Source
Pesticide/Herbicide Production
Petroleum Loading Racks and Storage Tanks at Bulk Terminals
Pharmaceutical Manufacturing
Polymeric Foam Products
Printing Facilities ≥ 25 Tons Per Year Potential Uncontrolled VOC Emissions or Facility With Controls
Rendering
Rubber Products Manufacturing
Semiconductor Manufacturing
Solid Waste Landfill
Source Subject to BACT Determination
Source Subject to a MACT, NESHAPS or NSPS standard under CAA Section 111 or 112 unless otherwise identified in another table
Source with 3 or more Table B Processes
Tennis Ball Manufacturing
Vegetable Oil Extraction

403.2 Table B Sources

Aerospace Products Manufacturing & Rework not subject to MACT
Aggregate Production/Crushing, All
Aggregate Screening
Animal Feed Processing
Auto Body Shredding
Bakery with Oven of 25 Tons per year of Potential Uncontrolled VOC emissions or facility with controls
Chemical/Fertilizer Storage, Mixing, Packaging and Handling
Concrete Batching
Concrete Product Manufacturing
Cotton Gin
Cotton Seed Processing
Crematory
Cultured Marble
Fiberglass Product Manufacturing
Flour Milling
Foundry
Furnace, Metals
Furnace, Burn-Off
Furnace, Electric Arc
Furnace, Other
Gas Turbine, Non-Utility (Utility in Table A)
Grain Cleaning/Processing
Grain Storage
Incinerator, Non-Hazardous Material
Internal Combustion Engine, Cogeneration
Pipeline Transmission Facility
Plating Tanks, Electrolytic or Electrowinning
Soil Treatment/Remediation
Soil Solvent Extraction System with Package Thermal/Catalytic Oxidizer/Carbon Adsorption
Solvent Degreasing/Cleaning System, Solvent Use >3 gallons per day
Solvent Reclaiming
Source with 3 or more Table C Processes
Stage I Vapor Recovery, Bulk Plants with Loading Racks
Stripping Operation, Equipment or Furniture Refurbishment
Stripping Operation, Liquid Chemical Groundwater/Wastewater Remediation
Wood Coating Operation subject to RACT including Furniture/Millwork Sources larger than 10 TPY VOC

403.3 Table C Sources:

Abrasive Blasting
Asphalt Day Tanker/Kettle
Cement Products Packaging
Circuit Board Assembly
Circuit Board Manufacturing <5 Tons per Year of VOC
Dry Cleaning
Emergency Internal Combustion Engine
Incinerator, Paper and Cardboard Products
Miscellaneous Solvent Use
Packaging, Mixing & Handling, Granular or Powdered Material other than Cement or Grain
Petroleum Storage, Non-retail Dispensing Operations exempted from Stage I Vapor Recovery by Rule 353
Plastic or Metal Extrusion
Plating, Electroless
Powder Coating
Printing Facilities without Control and < 25 Tons per Year of Potential Uncontrolled VOC Emissions
Solvent Cleaning, < 3 Gallons Per Day
Spray Coating
Bulk Plant Loading Facilities as Defined by Rule 351, Section 305.1
Storage Tank, Non-Petroleum Volatile Organic Compounds

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

Vehicle Refinishing
Wood Furniture/ Millwork/ Small Source less than 10 TPY VOC

403.4 Table D Sources:

Service Station and larger Non-resale Dispensing Operations

403.5 Table E Sources:

Fuel Burning Equipment

NOTICE OF RULEMAKING DOCKET OPENING

**MARICOPA COUNTY ENVIRONMENTAL SERVICES DEPARTMENT
AIR QUALITY DIVISION**

- 1. Title and its heading:** Maricopa County Air Pollution Control Regulations
Regulation and its heading: Regulation II Permits and Fees
Rule and its heading: Rule 204 – Emission Reduction Credits for the Arizona Emissions Bank
- 2. The subject matter of the proposed rule(s):**
Maricopa County proposes to create new Rule 204 to codify the certification and utilization of emission reduction credits as established by the Arizona Department of Environmental Quality.
- 3. A citation to all published notices relating to this proceeding:**
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the proposed rule(s):**

Name:	Brennan Curry Townsend or Jo Crumbaker
Address:	Maricopa County Environmental Services Department 1001 N. Central Avenue, Suite #695 Phoenix, AZ 85004
Telephone:	(602) 506-6710 or (602) 506-6705
Fax:	(602) 506-6179
E-mail:	bcurry@mail.maricopa.gov or jcrumbak@mail.maricopa.gov
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**
To be announced in the Notice of Proposed Rulemaking
- 6. A timetable for agency decisions or other action on the proceeding, if known:**
To be announced in the Notice of Proposed Rulemaking

NOTICE OF PROPOSED RULEMAKING

PINAL COUNTY AIR QUALITY CONTROL DISTRICT CODE OF REGULATIONS

PREAMBLE

1. Sections Affected

R4-2-020
R4-2-030
R4-2-060
R4-2-070
R4-2-080
R4-2-090
Appendix C

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and statutes the rules are implementing (specific):

Authorizing and implementing statutes: Arizona Revised Statutes (A.R.S.) §§ 49-479(A), 49-112(A), and 49-513

3. A list of previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 8 A.A.R. 2857, July 5, 2002

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Donald P. Gabrielson, Director

Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, AZ 85232

Telephone: (520) 868-6929

Fax: (520) 868-6967

E-mail: don.gabrielson@co.pinal.az.us

5. An explanation of the rule, including the District's reasons for initiating the rule:

The Pinal County Air Quality Control District (PCAQCD) is proposing to amend the rules that implemented a registration process for construction sites to ensure adequate dust control measures are initiated in Pinal County. In addition, the definition of "normal farm cultural practice" and the exemption for farming is revised to correlate with Arizona Administrative Code Rule 18-2-609 and Regulation 7-3-1.2.A and E (03/31/75 – approved as an element in the Arizona State Implementation Plan at 43 FR 50531). Pursuant to A.R.S. § 49-112(A), as enacted in 1994, a county may adopt rules that are more stringent than or in addition to a provision of the state, provided the rule is necessary to address a peculiar local condition; and if it is either necessary to prevent significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible or if it is required under federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule is equivalent to federal statutes or regulations; and if any fee adopted under the rule will not exceed the reasonable costs of the county to issue and administer that program. This rule addresses the peculiar local condition in which Pinal County lies between the major metropolitan areas of Phoenix and Tucson. As a result of continuing urbanization in those areas, the undeveloped areas in Pinal County are experiencing increasing development. Subdivisions are being planned and built along the Interstate 10 corridor and the U.S. Highway 60 corridor. The rules implement best available control measures (BACM) as required by the federal Clean Air Act (CAA) for "serious" PM-10 nonattainment areas. The changes to the rules meet the criteria for approvable Reasonably Available Control Measures (RACM) to control PM-10 emissions from construction sites.

6. A reference to any study that the agency proposed to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, and analysis of the study and other supporting material:

None

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The proposed rules should not have an economic impact on small businesses in Pinal County but will impose additional costs on the regulated community of developers, landowners, and contractors. However, the proposed construction activity fees are forty per cent less than the current fees in Maricopa County.

The fees represent a cost of \$14.92 per acre of construction activity for tracking and resolving dust complaints related to land development, and \$17.91 per ton of particulate matter pollution for countywide implementation.

A “small business” is defined in A.R.S. § 41-1001 as “a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than 150 full-time employees or which has gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small business and organizations.”

Rule Impact Reduction on Small Businesses (A.R.S. § 41-1035):

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule’s compliance or reporting requirements for small business.
4. Establish performance standards for small business to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

Pinal County Air Quality Control District (PACQCD) has evaluated each of the five listed methods and has concluded that all of the methods that are legal and feasible have already been implemented as an exemption in the rules.

9. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Donald P. Gabrielson, Director
Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, AZ 85232
Telephone: (520) 868-6929
Fax: (520) 868-6967
E-mail: don.gabrielson@co.pinal.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules, or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding of the proposed rules:

Stakeholders Meeting: Tuesday, November 19, 2002
Time: 1:00 p.m.
Location: Pinal County Complex, Emergency Operations Center (EOC), Building F,
31 N. Pinal Street, Florence, Arizona, 85232
Nature: Opportunity for additional comments regarding the proposed ordinance.

Public Hearing (Oral Proceeding): Monday, December 2, 2002
Time: 10:00 a.m.
Location: Pinal County Complex, Building A, Board of Supervisors’ Hearing Room,
31 N. Pinal Street, Florence, Arizona, 85232
Nature: Public Hearing with the opportunity for formal comments on the record
regarding the proposed ordinance. Written comments may be submitted on
or before 10:00 a.m. on December 2, 2002.

11. Any other matters prescribed by statute that is applicable to the specific agency or to any specific rules or class of rules:

Not applicable

12. Incorporation by reference and their location in the rules:

None

13. The full text of Article 2 and the two options for Article 3 (one that is countywide and another that is only for Supervisor's District #2) for the rules follows:

ARTICLE 2. FUGITIVE DUST

4-2-020. General

- A. The purpose of this article is to reasonably regulate operations, which periodically may cause fugitive dust emissions into the atmosphere.
- B. ~~This article shall not be construed so as to prevent normal farm cultural practices which cause fugitive dust (A.R.S. § 49-504.4. (1992)). However, a person shall not cause, suffer, allow, or permit the performance of agricultural practices, including tilling of land and application of fertilizers, without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.~~

[Adopted effective June 29, 1993. Amended December 4, 2002.]

4-2-030. Definitions

For the purpose of this article, the following definitions shall apply:

1. MOTOR VEHICLE - A self-propelled vehicle weighing less than six thousand pounds that is designed for carrying persons or property on a street or highway.
2. ~~NORMAL FARM CULTURAL PRACTICE - All activities by the owner, lessee, agent, independent contractor and supplier conducted on any facility for the production of crops, including but not limited to tilling of land and application of fertilizers, livestock, poultry, livestock products or poultry products.~~
3. REASONABLE PRECAUTION - Measures taken to prevent fugitive dust from becoming airborne which result in the lowest emission limitation by the application of control technology that is reasonably available considering technological and economic feasibility.
4. URBAN or SUBURBAN OPEN AREA - An unsubdivided tract of land surrounding a substantial urban development of a residential, industrial, or commercial nature and which, though near or within the limits of some city or town, may be used for agriculture, be uncultivated, or lie fallow.
5. VACANT LOT - A subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.

[Adopted effective June 29, 1993. Amended December 4, 2002.]

ARTICLE 3 - OPTION #1: PINAL COUNTY

ARTICLE 3. CONSTRUCTION SITES AND EARTHMOVING ACTIVITIES - FUGITIVE DUST

4-3-060. General Provisions

- A. Intent; Applicability; Exceptions
1. Intent: The intent of this section is to improve the control of excessive fugitive dust emissions that have been traditionally associated with construction, earthwork and land development, and thereby minimize nuisance impacts.
 2. Effective Date: Except for the registration requirements noted in A. 6 (e), the effective approval date of the regulations and prohibitions set forth in this section shall take effect no earlier than March 1, 2000: is the date the Board of Supervisors adopts the final rule, unless the Board of Supervisors specifies a later date. The rules will become effective 60 days after the final publication in the Arizona Administrative Register.
 3. Geographic Scope: These rules shall be effective throughout Pinal County.
 - a. ~~"Area A" as defined in Arizona Revised Statutes (A.R.S.) Section 49-541.~~
 - b. ~~"Area C" expansion of Area A if necessary to protect air quality~~
 4. Affected Activities
Within the meaning of this section, land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling excavated materials, storing excavated materials, loading excavated materials, or any other activity associated with land development whose objective is to which results in a disturbed surface area or dust generating operations, disturb the surface of the earth shall all constitute "affected activities," if the area to be disturbed surface area is greater than 0.1 acre.
 5. Affected Parties
The requirements and prohibitions of this rule shall independently apply to the land owner, and to any contractor or subcontractor operating on the job site, provided that full compliance with this rule by one of those parties shall operate to the benefit of each.
 6. Exceptions
Subject to the exceptions below, the prohibitions, registration requirements and performance standards of this section shall apply to all affected activities. Specific exceptions include:

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

- a. The registration requirements of this section shall not apply to any facility operating under authority of a permit issued pursuant to A.R.S. §§ 49-426 or 49-480.
- b. In the case of an emergency, action may be taken to stabilize the situation before submitting an air quality earthmoving activity registration form. Upon stabilizing the emergency situation, an air quality earthmoving activity registration form shall be submitted.
- c. In the case of legitimate vehicle test and development facilities and operations conducted by or for an equipment manufacturer, where dust is required to test and validate design integrity, product quality, and/or commercial acceptance, those activities shall be exempt from the registration requirements under this rule.
- d. The registration requirements of this section shall not apply to road maintenance activities. However, road maintenance activities must include control measures and work practices to reduce dust generation. A dust control plan must be prepared and available upon request, which shall contain an explanation of the control measures and work practices to be utilized on the project or site.
- e. The registration requirements of this section shall apply to public contracts bid on or after December 29 30, 2000 2002, and private contract bids on the date the contract is signed.
- f. The registration requirements shall not apply with respect to affected activities associated with the emergency repair of utilities.

B. General Prohibition

Subject to the exemptions set forth in this section, it constitutes a violation of this rule for any person to cause or permit the use of any powered equipment for the purpose of conducting any affected activity, without:

1. Providing an earthmoving registration form to the control officer, obtaining a written acknowledgment from the control officer, and complying with the provisions of the registration notice; and
2. Complying with the universal performance standard defined in this rule (see ~~section E~~ 4-3-090).

4-3-070. Definitions

See Article 3 (General Provisions and Definitions) of this code for definitions of terms that are used but not specifically defined in this rule.

1. "Affected Area" as used in this rule, means a job, construction site, which is greater than 0.1 acres and where affected activities associated with land development disturb the surface of the earth in Pinal County.
2. "Area A" (A.R.S. Sec. 49-541) as used in this rule for Pinal County, is the area delineated on the 1994 Supervisor District Map of Pinal County as follows:
Township 1 north, range 8 east, and range 9 east; Township 1 south, range 8 east and range 9 east; Township 2 south, range 8 east and range 9 east; Township 3 south, range 7 east through range 9 east.
~~"Area C" as used in this rule constitutes such additional portions of Pinal County as may be determined at the discretion of the Pinal County Board of Supervisors, namely: the remainder of Pinal County as delineated on the 1994 Supervisor District Map.~~ "Affected Activities" as used in this rule includes land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling excavated materials, storing excavated materials, loading excavated materials, or any other activity associated with land development which results in a disturbed surface area or dust generating operations, shall all constitute "affected activities," if the area to be disturbed is greater than 0.1 acre.
3. "Affected parties" as used in this rule is the landowner, general contractor or subcontractor.
4. "Bulk material" as used in this rule, means any material including but not limited to earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than 2 inches in length or diameter, dirt, mud, demolition debris, ~~cotton~~, trash, cinders, pumice, saw dust, ~~feeds, grains, fertilizers~~, and dry concrete, which are capable of producing fugitive dust at an industrial, institutional, commercial, governmental, construction, and/or demolition site.
5. "Bulk material handling, storage, and/or transporting operation" as used in this rule, means the use of equipment, haul trucks, and/or motor vehicles, such as but not limited to, the loading, unloading, conveying, transporting, piling, stacking, screening, grading, or moving of bulk materials, which are capable of producing fugitive dust at an industrial, institutional, commercial, governmental, construction, and/or demolition site.
6. "Carry-out/trackout" as used in this rule means, any and all bulk materials that adhere to and agglomerate on the exterior surface of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen onto a paved roadway.
7. "Control measure" as used in this rule means, a preemptive or concurrent technique, practice, or procedure used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust. Control measures include the following:

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

Control Measure	Description
a. Watering (pre-wetting)	Application of water by means of trucks, hoses, and/or sprinklers prior to conducting any land clearing. This will increase the moisture content of the soils and increase stability of the soil.
b. Watering (operational control)	In active earth-moving areas water should be applied at sufficient intervals and quantity to prevent visible emissions from extending more than 100 feet from the site's boundaries, as noted on the plot plan.
c. Watering (site stabilization)	Wind erosion control for inactive sites where there is no activity for seven (7) days or more.
d. Chemical stabilizers/dust suppressants	Effective in areas which are not subject to daily disturbances. Vendors can supply information on application methods and concentrations.
e. Wind barriers	Three to five-foot barriers (with 50% or less porosity), berms or equipment located adjacent to roadways or urban areas to reduce the amount of wind-blown material that leaves the site. Wind barriers must be implemented with watering or dust suppressants.
f. Cover haul vehicles	Entire surface area of hauled bulk materials should be covered with an anchored tarp, plastic or other material when the cargo container is empty or full.
g. Reduce speed limits	15 miles per hour maximum.
h. Gravel pad	A layer of washed gravel, rock, or crushed rock which is at least one inch or larger in diameter, maintained at the point of the intersection of a paved public roadway and a work site entrance to dislodge mud, dirt, and/or debris from the tires of motor vehicles, and/or haul trucks, prior to leaving the work site.
i. Grizzly	A device (i.e., rails, pipes, or grates) used to dislodge mud, dirt, and/or debris from the tires and undercarriage of motor vehicles and/or haul trucks prior to leaving the work site.
j. Wind sheltering	Enclose storage piles in silos or protected three sided barriers equal to bulk material height; line work site boundaries adjacent to roadways or urban areas with wind barriers.
k. Altering load-in/load-out procedures	Confine load-in-load out procedures to downwind side of the material and mist material with water prior to loading. Empty loader slowly and keep bucket close to the truck while dumping.
l. Other measures as proposed by the registrant	Specific measures that are adequate to address nuisance issues at the earth moving activity site.

8. "Disturbed Surface Area" as used in this rule, means any portion of the earth's surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition, thereby increasing the potential for emission of fugitive dust.
 - a. For trenches that are less than four feet in depth, it is assumed that a six (6) foot wide path of surface material will be disturbed as the trench is dug. Once the trench exceeds a length of 726 feet, 0.1 acres of surface area has been disturbed. For trenches that are four feet or greater in depth, it is assumed that a twelve (12) foot wide path of surface material will be disturbed as the trench is dug. Once the trench exceeds a length of 363 feet, 0.1 acres of surface area has been disturbed. If the registrant identifies situations in which the amount of surface area disturbed should be calculated differently, a case-by-case determination would be made.
 - b. For calculations of disturbed surface areas for land clearing or earthmoving activities, 25 feet will be added to each dimension of all structures, driveways, concrete pads, and other construction projects being built on the site to allow for an equipment utilization zone. If this final figure exceeds 4,356 square feet, a dust registration is required for the site.
9. "Dust generating operation" as used in this rule, means any activity capable of generating fugitive dust, including but not limited to, land clearing, earthmoving, weed abatement by discing or blading, excavating, construction, demolition, material handling, storage and/or transporting operations, vehicle use and movement, the operation of any outdoor equipment or unpaved parking lots. For the purpose of this rule, landscape maintenance and/or playing on a ballfield shall not be considered a dust generating operation. However, landscape maintenance shall not include grading, trenching, nor any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.
10. "Dust suppressant" as used in this rule, means water, hygroscopic material, solution of water and chemical surfactant, foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited by the U.S. Environmental Protection Agency (EPA) or the Arizona Department of Environmental Quality (ADEQ), or any applicable law, rule, or regulation, as a treatment material for reducing fugitive dust emissions.
11. "Earthmoving activity" as used in this rule, means any land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling excavated materials, storing excavated materials, loading excavated materials, or any other activity associated with land development or recreational vehicle usage, whose objective is to disturb the surface of the earth shall all constitute "affected activities" if the job site is greater than 0.1 acre. (See 4.3.060. A.4 - General Provisions)
12. "Earthmoving operation" as used in this rule, means the use of any equipment for an activity which may generate fugitive dust, such as but not limited to cutting and filling, grading, leveling, excavating, trenching, loading or unloading bulk material, demolishing, blasting, drilling, adding to or removing bulk materials from open storage piles, back filling, soil mulching, landfill operations, or weed abatement by discing or blading.
13. "Freeboard" as used in this rule, means the vertical distance between the top edge of a cargo container area and the highest point at which the bulk material contacts the sides, front, and back of the container.
14. "Fugitive dust" as used in this rule, means the regulated particulate matter, which is not collected by a capture system, which is entrained in the ambient air, and which is caused from human and/or natural activities, such as but not limited to, movement of soils, vehicles, equipment, blasting, and wind. For the purpose of this rule, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, and from piledrivers.
15. "Gravel pad" as used in this rule, means a layer of washed gravel, rock, or crushed rock which is at least one inch or larger in diameter, maintained at the point of intersection of a paved public roadway and a work site or source entrance to dislodge mud, dirt, and/or debris from the tire of the motor vehicles or haul trucks prior to leaving the work site.
16. "Grizzly" as used in this rule, means a device maintained at the point of intersection of a paved public roadway and a work site or source entrance to dislodge mud, dirt and/or debris from the tires of the motor vehicles or haul trucks prior to leaving the work site
17. "Haul truck" as used in this rule, is any fully or partially open-bodied self-propelled vehicle including any non-motorized attachments, such as but not limited to, trailers or other conveyances which are connected to or propelled by the actual motorized portion of the vehicle used for transporting bulk materials.
18. "Motor vehicle" as used in this rule, is a self-propelled vehicle for use on the public roads and highways of the State of Arizona and required to be registered under the Arizona State Uniform Motor Vehicle Act, including any non-motorized attachments, such as but not limited to, trailers or other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.
19. "Nuisance" as used in this rule, means to discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetables, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.

20. "Off-road vehicle" as used in this rule, is any self-propelled conveyance specifically designed for off-road use, including but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motorbuggies.
21. "Opacity" as used in this rule, means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
22. "Owner, general contractor, and/or subcontractor" as used in this rule, is any person who owns, leases, operates, controls, or supervises a dust generating operation subject to the requirements of this rule.
23. "Public roadway" as used in this rule, means any roadways that are open to public travel.
24. "Road Construction" as used in this rule, means the use of any equipment for the paving or new construction of a road surface, street or highway.
25. "Road Maintenance" as used in this rule, means the use of any equipment for the repair and preservation of an old road surface, street or highway.
26. "Sensitive area" as used in this rule, means a neighborhood with man-made structures utilized for human residence or business.
27. "Source" as used in this rule, means the construction site which is under common control or ownership, and all fixed or movable objects on such site, which is a potential point of origin of fugitive dust.
28. "Stockpile" as used in this rule, is an open accumulation of bulk material with a 5% or greater silt content which in any one point attains ~~a height of three feet and covers 150 square feet or more of ground surface~~, a quantity greater than 10 cubic yards and is located on a disturbed surface area that is greater than 0.1 acres. Silt content shall be assumed to be 5% or greater unless the affected party can show, by testing in accordance with ASTM method C136-96a or other equivalent method approved in writing by the Control Officer and the EPA Administrator, that the silt content is less than 5%.
29. "Trackout control device" as used in this rule, means a gravel pad, grizzly, wheel wash system, or a paved area, located at the point of intersection of an unpaved area and a paved roadway, that controls or prevents vehicular trackout.
30. "Traffic hazard" as used in this rule, means a discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials, which cause or have a tendency to cause interference with normal road use.
31. "Trench" as used in this rule, means a long, narrow excavation dug in the earth (as for drainage).
32. "Unpaved haul/access road" as used in this rule, means any on-site unpaved road used by commercial, industrial, institutional, and/or governmental traffic.
33. "Unpaved parking lot" as used in this rule, means any area larger than 5,000 square feet that is not paved and that is used for parking, maneuvering, or storing motor vehicles.
34. "Unpaved road" as used in this rule, means any road or equipment path that is not paved. For the purpose of this rule, an unpaved road is not a horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by motor vehicles.
35. "Visible emissions" as used in this rule, means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.
36. "Visibility impairment" as used in this rule, means any humanly perceptible change in visibility from that which would have existed under natural conditions.
37. "Wind barrier" as used in this rule, means any structure put up along a source's boundaries to reduce the amount of wind blown dust leaving the site. Creating a wind barrier includes but is not limited to installing wind fencing, construction of berms, or parking on-site equipment so that it blocks the wind.
38. "Wind-blown dust" as used in this rule, means visible emissions from any disturbed surface area, which are generated by wind action alone.
39. "Wind event" as used in this rule, means when the 60-minute average time and wind speed is greater or equal to 20 miles per hour, or such other wind speed/duration exemption threshold as may apply under Pinal County's Natural Events Action Plan (NEAP) dated November 25, 1997:
 - a. An 8-hour average wind speed in excess of 20 miles per hour (m.p.h.)
 - b. A 1-1/2 hour average wind speed in excess of 22 m.p.h.
 - c. A 1-hour average wind speed in excess of 25 m.p.h.
 - d. A 15-minute average wind speed in excess of 30 m.p.h.
40. "Wind fencing" as used in this rule, means a 3 to 5 foot barrier with 50% or less porosity located adjacent to roadways or urban areas.
41. "Work site" as used in this rule, means any property upon which dust generating operations and/or earthmoving operations occur.
42. "Work practices" as used in this rule, means a technique or operational procedure used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust. Work practices include the following:

<u>Specific Activity</u>	Work Practice
Bulk Material Hauling off-site onto paved public roadway	1. Load all trucks such that the freeboard is not less than three inches; and prevent spillage or loss of bulk material from holes or other openings in the conveyance; cover all haul trucks (empty or full) with a tarp or other suitable anchored material.
Bulk material hauling on-site (within work site)	2. Limit the vehicle speed to less than 15 m.p.h.; or apply water to the top of the load; or cover the hauled material.
Spillage, carry-out, erosion, and/or trackout	3. Install a suitable trackout control device from all work sites with a disturbed surface area of 5 acres or more and from all work sites where 100 cubic yards of bulk materials are hauled on/or off site per day.
Cleanup spillage, carry-out, erosion, and/or trackout on the following time schedule:	4. Immediately, when spillage, carry-out, and/or trackout extend a cumulative distance of 50 linear feet or more; or at the end of the work day.
Unpaved easements, right-of-way, and access roads	5. Inside the PM ₁₀ nonattainment area, restrict vehicular speeds to 15 miles per hour.
Open storage piles	6. During stacking, loading and unloading operations, apply water as necessary and/or construct and maintain wind barriers, storage silos, or a three-sided enclosure to surround pile and whose height is equal to the pile.
Weed abatement by discing or blading	7. Apply water before and during weed abatement.
Other work activities as provided by the registrant	8. Specific work practices that are adequate to address nuisance issues at the earth moving activity site.

4-3-080. Registration Requirements

Prior to engaging in affected activities on a job site, at least one affected party shall file a registration form with the Control Officer, pay the appropriate fee, and receive a registration notice from the Control Officer.

1. Registration Form:

- a. The applicant shall present a registration on a form approved by the Control Officer, and shall include all essential identification information as specified on that form. A separate registration form is required for each site location not contiguous to the location on the original registration form, unless an annual block registration is approved.
- b. Each registration shall also include a plot plan with linear dimensions in feet. The plot plan must be on 8 1/2 by 11 inch paper, and may be on one or more sheets. The plan should identify the parcel, the street address, the direction north, the total area to be disturbed and indicates sources of fugitive dust emission on the plot plan (delivery, transport, and storage areas).
- e. ~~Using the options on the registration form or in the applicant's own words, each registration application shall contain an explanation of the control measures and work practices to be utilized on the project.~~

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- ~~d.c.~~ Using the options on the registration form or in the applicant's own words, each registration application shall contain an explanation of how the applicant will demonstrate compliance with this rule, by demonstrating after-the-fact that the control measures and work practices proposed in the registration were in fact utilized on the project. A demonstration of compliance would typically include a daily written log at the work site, or the maintenance of invoices and/or payments reflecting the cost of the control measures.
- d. Annual Block Registration: The land owner, contractor, or subcontractor operating on the job site may submit to the Control Officer one Earthmoving Registration application for more than one earthmoving operation at which construction will commence within 12 months of registration issuance. The earthmoving operations must consist of routine operations: the expansion or extension of utilities, paved roads, unpaved roads, road shoulders, and/or alleys, and public right-of-ways at non-contiguous sites.
- i. An annual block registration must include all the requirements listed above in this subsection (1 a. through 1 c.) and a description of each site and type of earthmoving activity to be conducted.
- ii. For any project not listed in the Earthmoving Annual Block Registration Application, the applicant must notify the Control Officer in writing at least three working days prior to commencing the earthmoving activity. Such notification must include the site location, size, and type of earthmoving activity, and start date.
- e. Registration Renewal: The first registration obtained for an affected project must cover a contiguous area (unless it is an "annual block registration") and it is valid for one year from the date of issue. If the project has not been completed at the end of the one-year period, the dust registration must be renewed. Upon renewal, the total acreage covered by the dust registration does not have to be contiguous, although all the acreage covered by the renewed dust registration must have been included in the original dust registration.
2. Registration acknowledgment:
- a. The registration acknowledgment from the control officer will contain the universal performance standard and conditions regarding the necessary control measures and work practices specific to the applicable project as proposed by the registrant.
- b. The registration acknowledgment shall contain a provision that all registrants keep records documenting the actual application or implementation of the control measures delineated in the registration application for at least 30 days following the termination of the registration acknowledgment.
- c. The registration acknowledgment shall be valid for a period of not more than one year from the date of issue, and may be renewed by providing the Control Officer a new registration application and payment of the appropriate fee.
- d. Registrants shall notify the Control Officer within five working days of the start and completion of the project.
- e. At all sites that are five acres or larger, registrants shall erect a project information sign at the main entrance that is visible to the public or at each end of the road construction project site. The sign shall be a minimum of 24 inches tall by 30 inches wide, have a white background, have the words "DUST CONTROL" shown in black block lettering which is at least four inches high, and shall contain the following information in a legible fashion:
- i. Project Name
- ii. Name and phone number of person(s) responsible for conducting project
- iii. Text stating: "Dust Complaints? Call Pinal County Air Quality Control District at (520) 868-6929."

4-3-090. Universal Performance Standard

1. Within the affected area, a landowner or contractor shall not conduct or allow dust generating operations:
- a. in a manner such that an unreasonable amount of dust is blown into sensitive areas so as to create a public nuisance;
- b. in a manner such that opacity of the dust leaving the property exceeds twenty percent (20%) or greater as measured using Test Method 9 (40 CFR 60, Appendix A) or an equivalent test method approved by the Control Officer and the EPA Administrator;
- c. in a manner that will produce visibility impairment that could threaten public safety.
2. Failure to comply with these requirements shall presumptively constitute cause for the Control Officer or his authorized representative to order a halt to the offending activity. Failure by an owner, contractor or facility operator to respond to such an order from the Control Officer shall constitute a violation of this rule.
3. Violations: ~~a.~~ Generally any land owner, contractor, or subcontractor operating on the job site, who violates any Pinal County Air Quality Control District rule may be subject to an order of abatement, a civil action for injunctive relief or civil penalties, or may be found guilty of a Class I Misdemeanor.
4. Violation Exemptions:
- a. Wind Event: exceedances of the opacity limit that occur due to a wind event shall be exempted from enforcement action if the owner/general contractor demonstrates all of the following conditions:
- i. All control measures required in the registration acknowledgment were followed and one or more of the work practices were applied and maintained;
- ii. The 20% opacity exceedance could not have been prevented by better application, implementation, operation, or maintenance of the control measures;

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- iii. The occurrence of a wind event on the day(s) in question is documented by records by the Pinal County Air Quality Control District monitoring station in the affected area, from any other certified meteorological station, or by a wind instrument that is calibrated to the manufacturer's standards and that is located at the site being investigated.
- b. No opacity limitation shall apply to emergency maintenance of flood control channels and water retention basins, provided that control measures are implemented.
5. Limited scope of rule
Nothing in this rule shall authorize or permit any practice, which is in violation of any statute, ordinance, rule or regulation.

[Adopted December 13, 2000, and effective March 1, 2001. Amended December 4, 2002.]

ARTICLE 3 – OPTION #2 (SUPERVISOR'S DISTRICT #2):

ARTICLE 3. CONSTRUCTION SITES AND EARTHMOVING ACTIVITIES - FUGITIVE DUST

4-3-060. General Provisions

A. Intent; Applicability; Exceptions

1. Intent: The intent of this section is to improve the control of excessive fugitive dust emissions that have been traditionally associated with construction, earthwork and land development, and thereby minimize nuisance impacts.
2. Effective Date: Except for the registration requirements noted in A. 6 (e), the effective approval date of the regulations and prohibitions set forth in this section shall take effect no earlier than March 1, 2000: is the date the Board of Supervisors adopts the final rule, unless the Board of Supervisors specifies a later date. The rules will become effective 60 days after the final publication in the Arizona Administrative Register.
3. Geographic Scope: These rules shall be effective throughout the Supervisor District #2 area.
 - a. ~~"Area A"—as defined in Arizona Revised Statutes (A.R.S.) Section 49-541.~~
 - b. ~~"Area C"—expansion of Area A if necessary to protect air quality~~
4. Affected Activities
Within the meaning of this section, land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling excavated materials, storing excavated materials, loading excavated materials, or any other activity associated with land development ~~whose objective is to~~ which results in a disturbed surface area or dust generating operations, disturb the surface of the earth shall all constitute "affected activities," if the ~~area to be~~ disturbed surface area is greater than 0.1 acre.
5. Affected Parties
The requirements and prohibitions of this rule shall independently apply to the land owner, and to any contractor or subcontractor operating on the job site, provided that full compliance with this rule by one of those parties shall operate to the benefit of each.
6. Exceptions
Subject to the exceptions below, the prohibitions, registration requirements and performance standards of this section shall apply to all affected activities. Specific exceptions include:
 - a. The registration requirements of this section shall not apply to any facility operating under authority of a permit issued pursuant to A.R.S. §§ 49-426 or 49-480.
 - b. In the case of an emergency, action may be taken to stabilize the situation before submitting an air quality earthmoving activity registration form. Upon stabilizing the emergency situation, an air quality earthmoving activity registration form shall be submitted.
 - c. In the case of legitimate vehicle test and development facilities and operations conducted by or for an equipment manufacturer, where dust is required to test and validate design integrity, product quality, and/or commercial acceptance, those activities shall be exempt from the registration requirements under this rule.
 - d. The registration requirements of this section shall not apply to road maintenance activities. However, road maintenance activities must include control measures and work practices to reduce dust generation. A dust control plan must be prepared and available upon request, which shall contain an explanation of the control measures and work practices to be utilized on the project or site.
 - e. The registration requirements of this section shall apply to public contracts bid on or after December 29 30, 2000 2002, and private contract bids on the date the contract is signed.
 - f. The registration requirements shall not apply with respect to affected activities associated with the emergency repair of utilities.

B. General Prohibition

Subject to the exemptions set forth in this section, it constitutes a violation of this rule for any person to cause or permit the use of any powered equipment for the purpose of conducting any affected activity, without:

1. Providing an earthmoving registration form to the control officer, obtaining a written acknowledgment from the control officer, and complying with the provisions of the registration notice; and
2. Complying with the universal performance standard defined in this rule (see ~~section E~~ 4-3-090).

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

4-3-070. Definitions

See Article 3 (General Provisions and Definitions) of this code for definitions of terms that are used but not specifically defined in this rule.

1. "Affected Area" as used in this rule, means a job, construction site, which is greater than 0.1 acres and where affected activities associated with land development disturb the surface of the earth in Supervisor District #2 and is the area delineated on the 2001 Supervisor District Map of Pinal County as follows: Township 1 north, range 10 east through 13 east; Township 1 south, range 10 east through 13 east; Township 2 south, range 2 east; Township 2 south, range 10 east through 14 east; Township 3 south, range 2 east through 6 east; Township 3 south, range 10 east through 14 east.
2. "Area A" (A.R.S. Sec. 49-541) as used in this rule for Pinal County, is the area delineated on the 1994 Supervisor District Map of Pinal County as follows:
Township 1 north, range 8 east, and range 9 east; Township 1 south, range 8 east and range 9 east; Township 2 south, range 8 east and range 9 east; Township 3 south, range 7 east through range 9 east.
 "Area C" as used in this rule constitutes such additional portions of Pinal County as may be determined at the discretion of the Pinal County Board of Supervisors, namely: the remainder of Pinal County as delineated on the 1994 Supervisor District Map. "Affected Activities" as used in this rule includes land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling excavated materials, storing excavated materials, loading excavated materials, or any other activity associated with land development which results in a disturbed surface area or dust generating operations, shall all constitute "affected activities," if the area to be disturbed is greater than 0.1 acre.
3. "Affected parties" as used in this rule is the landowner, general contractor or subcontractor.
4. "Bulk material" as used in this rule, means any material including but not limited to earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than 2 inches in length or diameter, dirt, mud, demolition debris, ~~cotton~~, trash, cinders, pumice, saw dust, ~~feeds, grains, fertilizers~~, and dry concrete, which are capable of producing fugitive dust at an industrial, institutional, commercial, governmental, construction, and/or demolition site.
5. "Bulk material handling, storage, and/or transporting operation" as used in this rule, means the use of equipment, haul trucks, and/or motor vehicles, such as but not limited to, the loading, unloading, conveying, transporting, piling, stacking, screening, grading, or moving of bulk materials, which are capable of producing fugitive dust at an industrial, institutional, commercial, governmental, construction, and/or demolition site.
6. "Carry-out/trackout" as used in this rule means, any and all bulk materials that adhere to and agglomerate on the exterior surface of motor vehicles, haul trucks, and/or equipment (including tires) and that have fallen onto a paved roadway.
7. "Control measure" as used in this rule means, a preemptive or concurrent technique, practice, or procedure used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust. Control measures include the following:

Control Measure	Description
a. Watering (pre-wetting)	Application of water by means of trucks, hoses, and/or sprinklers prior to conducting any land clearing. This will increase the moisture content of the soils and increase stability of the soil.
b. Watering (operational control)	In active earth-moving areas water should be applied at sufficient intervals and quantity to prevent visible emissions from extending more than 100 feet from the site's boundaries, as noted on the plot plan.
c. Watering (site stabilization)	Wind erosion control for inactive sites where there is no activity for seven (7) days or more.
d. Chemical stabilizers/dust suppressants	Effective in areas which are not subject to daily disturbances. Vendors can supply information on application methods and concentrations.

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e. Wind barriers	Three to five-foot barriers (with 50% or less porosity), berms or equipment located adjacent to roadways or urban areas to reduce the amount of wind-blown material that leaves the site. Wind barriers must be implemented with watering or dust suppressants.
f. Cover haul vehicles	Entire surface area of hauled bulk materials should be covered with an anchored tarp, plastic or other material when the cargo container is empty or full.
g. Reduce speed limits	15 miles per hour maximum.
h. Gravel pad	A layer of washed gravel, rock, or crushed rock which is at least one inch or larger in diameter, maintained at the point of the intersection of a paved public roadway and a work site entrance to dislodge mud, dirt, and/or debris from the tires of motor vehicles, and/or haul trucks, prior to leaving the work site.
i. Grizzly	A device (i.e., rails, pipes, or grates) used to dislodge mud, dirt, and/or debris from the tires and undercarriage of motor vehicles and/or haul trucks prior to leaving the work site.
j. Wind sheltering	Enclose storage piles in silos or protected three sided barriers equal to bulk material height; line work site boundaries adjacent to roadways or urban areas with wind barriers.
k. Altering load-in/load-out procedures	Confine load-in-load out procedures to downwind side of the material and mist material with water prior to loading. Empty loader slowly and keep bucket close to the truck while dumping.
l. Other measures as proposed by the registrant	Specific measures that are adequate to address nuisance issues at the earth moving activity site.

8. “Disturbed Surface Area” as used in this rule, means any portion of the earth’s surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition, thereby increasing the potential for emission of fugitive dust.
 - a. For trenches that are less than four feet in depth, it is assumed that a six (6) foot wide path of surface material will be disturbed as the trench is dug. Once the trench exceeds a length of 726 feet, 0.1 acres of surface area has been disturbed. For trenches that are four feet or greater in depth, it is assumed that a twelve (12) foot wide path of surface material will be disturbed as the trench is dug. Once the trench exceeds a length of 363 feet, 0.1 acres of surface area has been disturbed. If the registrant identifies situations in which the amount of surface area disturbed should be calculated differently, a case-by-case determination would be made.
 - b. For calculations of disturbed surface areas for land clearing or earthmoving activities, 25 feet will be added to each dimension of all structures, driveways, concrete pads, and other construction projects being built on the site to allow for an equipment utilization zone. If this final figure exceeds 4,356 square feet, a dust registration is required for the site.
9. “Dust generating operation” as used in this rule, means any activity capable of generating fugitive dust, including but not limited to, land clearing, earthmoving, weed abatement by discing or blading, excavating, construction, demolition, material handling, storage and/or transporting operations, vehicle use and movement, the operation of any outdoor equipment or unpaved parking lots. For the purpose of this rule, landscape maintenance and/or playing on a ballfield shall not be considered a dust generating operation. However, landscape maintenance shall not include grading, trenching, nor any other mechanized surface disturbing activities performed to establish initial landscapes or to redesign existing landscapes.

10. "Dust suppressant" as used in this rule, means water, hygroscopic material, solution of water and chemical surfactant, foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited by the U.S. Environmental Protection Agency (EPA) or the Arizona Department of Environmental Quality (ADEQ), or any applicable law, rule, or regulation, as a treatment material for reducing fugitive dust emissions.
11. "Earthmoving activity" as used in this rule, means any land stripping, earthmoving, blasting, trenching, road construction, grading, landscaping, stockpiling excavated materials, storing excavated materials, loading excavated materials, or any other activity associated with land development or recreational vehicle usage, whose objective is to disturb the surface of the earth shall all constitute "affected activities" if the job site is greater than 0.1 acre. (See 4.3.060. A.4 - General Provisions)
12. "Earthmoving operation" as used in this rule, means the use of any equipment for an activity which may generate fugitive dust, such as but not limited to cutting and filling, grading, leveling, excavating, trenching, loading or unloading bulk material, demolishing, blasting, drilling, adding to or removing bulk materials from open storage piles, back filling, soil mulching, landfill operations, or weed abatement by discing or blading.
13. "Freeboard" as used in this rule, means the vertical distance between the top edge of a cargo container area and the highest point at which the bulk material contacts the sides, front, and back of the container.
14. "Fugitive dust" as used in this rule, means the regulated particulate matter, which is not collected by a capture system, which is entrained in the ambient air, and which is caused from human and/or natural activities, such as but not limited to, movement of soils, vehicles, equipment, blasting, and wind. For the purpose of this rule, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment, and from piledrivers.
15. "Gravel pad" as used in this rule, means a layer of washed gravel, rock, or crushed rock which is at least one inch or larger in diameter, maintained at the point of intersection of a paved public roadway and a work site or source entrance to dislodge mud, dirt, and/or debris from the tire of the motor vehicles or haul trucks prior to leaving the work site.
16. "Grizzly" as used in this rule, means a device maintained at the point of intersection of a paved public roadway and a work site or source entrance to dislodge mud, dirt and/or debris from the tires of the motor vehicles or haul trucks prior to leaving the work site
17. "Haul truck" as used in this rule, is any fully or partially open-bodied self-propelled vehicle including any non-motorized attachments, such as but not limited to, trailers or other conveyances which are connected to or propelled by the actual motorized portion of the vehicle used for transporting bulk materials.
18. "Motor vehicle" as used in this rule, is a self-propelled vehicle for use on the public roads and highways of the State of Arizona and required to be registered under the Arizona State Uniform Motor Vehicle Act, including any non-motorized attachments, such as but not limited to, trailers or other conveyances which are connected to or propelled by the actual motorized portion of the vehicle.
19. "Nuisance" as used in this rule, means to discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetables, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.
20. "Off-road vehicle" as used in this rule, is any self-propelled conveyance specifically designed for off-road use, including but not limited to, off-road or all-terrain equipment, trucks, cars, motorcycles, motorbikes, or motorbuggies.
21. "Opacity" as used in this rule, means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
22. "Owner, general contractor, and/or subcontractor" as used in this rule, is any person who owns, leases, operates, controls, or supervises a dust generating operation subject to the requirements of this rule.
23. "Public roadway" as used in this rule, means any roadways that are open to public travel.
24. "Road Construction" as used in this rule, means the use of any equipment for the paving or new construction of a road surface, street or highway.
25. "Road Maintenance" as used in this rule, means the use of any equipment for the repair and preservation of an old road surface, street or highway.
26. "Sensitive area" as used in this rule, means a neighborhood with man-made structures utilized for human residence or business.
27. "Source" as used in this rule, means the construction site which is under common control or ownership, and all fixed or movable objects on such site, which is a potential point of origin of fugitive dust.
28. "Stockpile" as used in this rule, is an open accumulation of bulk material with a 5% or greater silt content which in any one point attains ~~a height of three feet and covers 150 square feet or more of ground surface. a quantity greater than 10 cubic yards and is located on a disturbed surface area that is greater than 0.1 acres.~~ Silt content shall be assumed to be 5% or greater unless the affected party can show, by testing in accordance with ASTM method C136-96a or other equivalent method approved in writing by the Control Officer and the EPA Administrator, that the silt content is less than 5%.

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

29. "Trackout control device" as used in this rule, means a gravel pad, grizzly, wheel wash system, or a paved area, located at the point of intersection of an unpaved area and a paved roadway, that controls or prevents vehicular track-out.
30. "Traffic hazard" as used in this rule, means a discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials, which cause or have a tendency to cause interference with normal road use.
31. "Trench" as used in this rule, means a long, narrow excavation dug in the earth (as for drainage).
32. "Unpaved haul/access road" as used in this rule, means any on-site unpaved road used by commercial, industrial, institutional, and/or governmental traffic.
33. "Unpaved parking lot" as used in this rule, means any area larger than 5,000 square feet that is not paved and that is used for parking, maneuvering, or storing motor vehicles.
34. "Unpaved road" as used in this rule, means any road or equipment path that is not paved. For the purpose of this rule, an unpaved road is not a horse trail, hiking path, bicycle path, or other similar path used exclusively for purposes other than travel by motor vehicles.
35. "Visible emissions" as used in this rule, means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.
36. "Visibility impairment" as used in this rule, means any humanly perceptible change in visibility from that which would have existed under natural conditions.
37. "Wind barrier" as used in this rule, means any structure put up along a source's boundaries to reduce the amount of wind blown dust leaving the site. Creating a wind barrier includes but is not limited to installing wind fencing, construction of berms, or parking on-site equipment so that it blocks the wind.
38. "Wind-blown dust" as used in this rule, means visible emissions from any disturbed surface area, which are generated by wind action alone.
39. "Wind event" as used in this rule, means when the 60-minute average time and wind speed is greater or equal to 20 miles per hour, or such other wind speed/duration exemption threshold as may apply under Pinal County's Natural Events Action Plan (NEAP) dated November 25, 1997:
 - a. An 8-hour average wind speed in excess of 20 miles per hour (m.p.h.)
 - b. A 1-1/2 hour average wind speed in excess of 22 m.p.h.
 - c. A 1-hour average wind speed in excess of 25 m.p.h.
 - d. A 15-minute average wind speed in excess of 30 m.p.h.
40. "Wind fencing" as used in this rule, means a 3 to 5 foot barrier with 50% or less porosity located adjacent to roadways or urban areas.
41. "Work site" as used in this rule, means any property upon which dust generating operations and/or earthmoving operations occur.
42. "Work practices" as used in this rule, means a technique or operational procedure used to minimize the generation, emission, entrainment, suspension, and/or airborne transport of fugitive dust. Work practices include the following:

<u>Specific Activity</u>	Work Practice
Bulk Material Hauling off-site onto paved public roadway	1. Load all trucks such that the freeboard is not less than three inches; and prevent spillage or loss of bulk material from holes or other openings in the conveyance; cover all haul trucks (empty or full) with a tarp or other suitable anchored material.
Bulk material hauling on-site (within work site)	2. Limit the vehicle speed to less than 15 m.p.h.; or apply water to the top of the load; or cover the hauled material.
Spillage, carry-out, erosion, and/or trackout	3. Install a suitable trackout control device from all work sites with a disturbed surface area of 5 acres or more and from all work sites where 100 cubic yards of bulk materials are hauled on/or off site per day.
Cleanup spillage, carry-out, erosion, and/or trackout on the following time schedule:	4. Immediately, when spillage, carry-out, and/or trackout extend a cumulative distance of 50 linear feet or more; or at the end of the work day.

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

Unpaved easements, right-of-way, and access roads	5. Inside the PM ₁₀ nonattainment area, restrict vehicular speeds to 15 miles per hour.
Open storage piles	6. During stacking, loading and unloading operations, apply water as necessary and/or construct and maintain wind barriers, storage silos, or a three-sided enclosure to surround pile and whose height is equal to the pile.
Weed abatement by discing or blading	7. Apply water before and during weed abatement.
Other work activities as provided by the registrant	8. Specific work practices that are adequate to address nuisance issues at the earth moving activity site.

4-3-080. Registration Requirements

Prior to engaging in affected activities on a job site, at least one affected party shall file a registration form with the Control Officer, pay the appropriate fee, and receive a registration notice from the Control Officer.

1. Registration Form:

- a. The applicant shall present a registration on a form approved by the Control Officer, and shall include all essential identification information as specified on that form. A separate registration form is required for each site location not contiguous to the location on the original registration form, unless an annual block registration is approved.
- b. Each registration shall also include a plot plan with linear dimensions in feet. The plot plan must be on 8 1/2 by 11 inch paper, and may be on one or more sheets. The plan should identify the parcel, the street address, the direction north, the total area to be disturbed and indicates sources of fugitive dust emission on the plot plan (delivery, transport, and storage areas).
- e. ~~Using the options on the registration form or in the applicant's own words, each registration application shall contain an explanation of the control measures and work practices to be utilized on the project.~~
- ~~d-c.~~ Using the options on the registration form or in the applicant's own words, each registration application shall contain an explanation of how the applicant will demonstrate compliance with this rule, by demonstrating after-the-fact that the control measures and work practices proposed in the registration were in fact utilized on the project. A demonstration of compliance would typically include a daily written log at the work site, or the maintenance of invoices and/or payments reflecting the cost of the control measures.
- d. Annual Block Registration: The land owner, contractor, or subcontractor operating on the job site may submit to the Control Officer one Earthmoving Registration application for more than one earthmoving operation at which construction will commence within 12 months of registration issuance. The earthmoving operations must consist of routine operations: the expansion or extension of utilities, paved roads, unpaved roads, road shoulders, and/or alleys, and public right-of-ways at non-contiguous sites.
 - i. An annual block registration must include all the requirements listed above in this subsection (1 a. through 1 c.) and a description of each site and type of earthmoving activity to be conducted.
 - ii. For any project not listed in the Earthmoving Annual Block Registration Application, the applicant must notify the Control Officer in writing at least three working days prior to commencing the earthmoving activity. Such notification must include the site location, size, and type of earthmoving activity, and start date.
- e. Registration Renewal: The first registration obtained for an affected project must cover a contiguous area (unless it is an "annual block registration") and it is valid for one year from the date of issue. If the project has not been completed at the end of the one-year period, the dust registration must be renewed. Upon renewal, the total acreage covered by the dust registration does not have to be contiguous, although all the acreage covered by the renewed dust registration must have been included in the original dust registration.

2. Registration acknowledgment:

- a. The registration acknowledgment from the control officer will contain the universal performance standard and conditions regarding the necessary control measures and work practices specific to the applicable project as proposed by the registrant.

- b. The registration acknowledgment shall contain a provision that all registrants keep records documenting the actual application or implementation of the control measures delineated in the registration application for at least 30 days following the termination of the registration acknowledgment.
- c. The registration acknowledgment shall be valid for a period of not more than one year from the date of issue, and may be renewed by providing the Control Officer a new registration application and payment of the appropriate fee.
- d. Registrants shall notify the Control Officer within five working days of the start and completion of the project.
- e. At all sites that are five acres or larger, registrants shall erect a project information sign at the main entrance that is visible to the public or at each end of the road construction project site. The sign shall be a minimum of 24 inches tall by 30 inches wide, have a white background, have the words "DUST CONTROL" shown in black block lettering which is at least four inches high, and shall contain the following information in a legible fashion:
 - i. Project Name
 - ii. Name and phone number of person(s) responsible for conducting project
 - iii. Text stating: "Dust Complaints? Call Pinal County Air Quality Control District at (520) 868-6929."

4-3-090. Universal Performance Standard

- 1. Within the affected area, a landowner or contractor shall not conduct or allow dust generating operations:
 - a. in a manner such that an unreasonable amount of dust is blown into sensitive areas so as to create a public nuisance;
 - b. in a manner such that opacity of the dust leaving the property exceeds twenty percent (20%) or greater as measured using Test Method 9 (40 CFR 60, Appendix A) or an equivalent test method approved by the Control Officer and the EPA Administrator;
 - c. in a manner that will produce visibility impairment that could threaten public safety.
- 2. Failure to comply with these requirements shall presumptively constitute cause for the Control Officer or his authorized representative to order a halt to the offending activity. Failure by an owner, contractor or facility operator to respond to such an order from the Control Officer shall constitute a violation of this rule.
- 3. Violations: ~~a~~. Generally any land owner, contractor, or subcontractor operating on the job site, who violates any Pinal County Air Quality Control District rule may be subject to an order of abatement, a civil action for injunctive relief or civil penalties, or may be found guilty of a Class I Misdemeanor.
- 4. Violation Exemptions:
 - a. Wind Event: exceedances of the opacity limit that occur due to a wind event shall be exempted from enforcement action if the owner/general contractor demonstrates all of the following conditions:
 - i. All control measures required in the registration acknowledgment were followed and one or more of the work practices were applied and maintained;
 - ii. The 20% opacity exceedance could not have been prevented by better application, implementation, operation, or maintenance of the control measures;
 - iii. The occurrence of a wind event on the day(s) in question is documented by records by the Pinal County Air Quality Control District monitoring station in the affected area, from any other certified meteorological station, or by a wind instrument that is calibrated to the manufacturer's standards and that is located at the site being investigated.
 - b. No opacity limitation shall apply to emergency maintenance of flood control channels and water retention basins, provided that control measures are implemented.
- 5. Limited scope of rule
Nothing in this rule shall authorize or permit any practice, which is in violation of any statute, ordinance, rule or regulation.

[Adopted December 13, 2000, and effective March 1, 2001. Amended December 4, 2002.]

APPENDIX C. CONTROLLED OPEN BURNING AND EARTHMOVING FEE SCHEDULE

I. OPEN BURNING:

Category	Fee
RESIDENTIAL	
A. One time, 3 day permit	\$2.00
B. 3 month permit	\$5.00
C. 6 month permit	\$10.00
COMMERCIAL	
A. One time, 3 day permit	\$5.00
B. 3 month permit	\$20.00
C. 6 month permit	\$35.00
AGRICULTURAL (1 year permit)	
A. Farms less than 320 contiguous acres	\$50.00
B. Farms of 320 or more contiguous acres	\$100.00
C. Maximum annual single-permit fee for all acreage under control of one legal entity, regardless of contiguity or acreage	\$200.00
BUILDING DEMOLITION/BUILDING MATERIAL DEMOLITION BY FIRE	
A. Non-refundable pre-permit inspection fee	\$50.00
B. Additional permit-issue fee (if permit issuance is allowed)	\$50.00
DESTRUCTION OF HAZARDOUS MATERIAL	
A. Non-refundable pre-permit inspection fee	\$50.00
B. Additional permit-issue fee (if permit issuance is allowed)	\$50.00

[Adopted effective November 3, 1993. Amended February 22, 1995.]

EARTHMOVING FEE SCHEDULE

EARTHMOVING:

<u>Category</u>	<u>Fee</u>
<u>A. Land stripping and/or earthmoving (0.1 to less than five acres)</u>	<u>\$75.00*</u>
<u>Land stripping and/or earthmoving (five to less than 10 acres)</u>	<u>\$200.00*</u>
<u>Land stripping and/or earthmoving (10 acres to less than 20 acres)</u>	<u>\$400.00*</u>
<u>Land stripping and/or earthmoving (20 acres to less than 30 acres)</u>	<u>\$600.00*</u>
<u>Land stripping and/or earthmoving (30 acres to less than 40 acres)</u>	<u>\$800.00*</u>
<u>Land stripping and/or earthmoving (40 acres to less than 50 acres)</u>	<u>\$1000.00*</u>
<u>Land stripping and/or earthmoving (50 acres to less than 60 acres)</u>	<u>\$1200.00*</u>
<u>Land stripping and/or earthmoving (60 acres to less than 70 acres)</u>	<u>\$1400.00*</u>
<u>Land stripping and/or earthmoving (70 acres to less than 80 acres)</u>	<u>\$1600.00*</u>
<u>Land stripping and/or earthmoving (80 acres to less than 100 acres)</u>	<u>\$1800.00*</u>
<u>Land stripping and/or earthmoving (100+acres)</u>	<u>\$2000.00*</u>
<u>B. Trenching for Landscaping and Septic systems:</u>	
<u>100 to less than 300 linear feet of aggregate trenching</u>	<u>\$25.00*</u>
<u>301 linear feet to 500 linear feet of aggregate trenching</u>	<u>\$50.00*</u>
<u>501 linear feet to 1000 linear feet of aggregate trenching</u>	<u>\$100.00*</u>
<u>1001+ linear feet</u>	<u>\$150.00*</u>
<u>C. Stockpiling greater than 10 cubic yards but less than 100 cubic yards</u>	<u>\$50.00*</u>
<u>101 cubic yards to 500 cubic yards</u>	<u>\$100.00*</u>

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

501+ cubic yards

\$150.00*

D. Annual Block Registration (Utilities & Routine Operations)

\$2000.00*

* Late filing fee: Failure to File a Registration Form prior to construction activity at the site:

a. For projects under less than 5 acres, an additional late filing fee of \$25.00.

b. For projects of 5 acres or larger, an additional late filing fee of \$50.00/100.00.

[Adopted November 3, 1993. Amended December 4, 2002.]

NOTICE OF PROPOSED RULEMAKING

PINAL COUNTY OFF-ROAD VEHICLE ORDINANCE

PREAMBLE

1. Sections Affected **Rulemaking Action**

Ordinance 120402AQC – Pinal County Board of Supervisors’

Off-Road Vehicle Ordinance

New

2. The specific authority for the rulemaking, including both the authorizing statute (general) and statutes the rules are implementing (specific):

Authorizing and implementing statutes: Arizona Revised Statutes (A.R.S.) §§ 11-251(17), 11-251(31), 11-251(43), 11-251.01, 49-479(A), 49-112(A), and 49-513

3. A list of previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 8 A.A.R. 2857, July 5, 2002

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Donald P. Gabrielson, Director

Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, AZ 85232

Telephone: (520) 868-6929

Fax: (520) 868-6967

E-mail: don.gabrielson@co.pinal.az.us

5. An explanation of the rule, including the District’s reasons for initiating the rule:

The Board of Supervisors in accordance with A.R.S. § 11-251.05 adopts county ordinances. A.R.S. § 11-251(43) allows the Board of Supervisors to regulate off-road recreational motor vehicles operated illegally on public lands, operated on private lands without the consent of the owner, or operated in a manner that generates air pollution.

6. A reference to any study that the agency proposed to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, and analysis of the study and other supporting material:

None

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The proposed ordinance should not have an economic impact on businesses in Pinal County and should not impose additional costs on the regulated community, small businesses, political subdivisions, and members of the public.

A “small business” is defined in A.R.S. § 41-1001 as “a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than 150 full-time employees or

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

which has gross annual receipts of less than 4 million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small business and organizations.”

Rule Impact Reduction on Small Businesses (A.R.S. § 41-1035):

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule’s compliance or reporting requirements for small business.
4. Establish performance standards for small business to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

Pinal County Air Quality Control District (PCAQCD) has evaluated each of the five listed methods and has concluded that all of the methods that are legal and feasible have already been implemented as an exemption in the ordinance.

9. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Donald P. Gabrielson, Director
Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, AZ 85232
Telephone: (520) 868-6929
Fax: (520) 868-6967
E-mail: don.gabrielson@co.pinal.az.us

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules, or, if no proceeding is scheduled, where, when, how persons may request an oral proceeding of the proposed rules:

Stakeholders Meeting: Tuesday, November 19, 2002
Time: 1:00 p.m.
Location: Pinal County Complex, Emergency Operations Center (EOC), Building F, 31 N. Pinal Street, Florence, Arizona, 85232
Nature: Opportunity for additional comments regarding the proposed ordinance.

Public Hearing (Oral Proceeding): Monday, December 2, 2002
Time: 10:00 a.m.
Location: Pinal County Complex, Building A, Board of Supervisors Hearing Room, 31 N. Pinal Street, Florence, Arizona, 85232
Nature: Public Hearing with the opportunity for formal comments on the record regarding the proposed ordinance. Written comments may be submitted on or before 10:00 a.m. on December 2, 2002.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rules or class of rules:

Not applicable

12. Incorporation by reference and their location in the rules:

None

13. The full text of the two options (one that is countywide and another that is only for Supervisor’s District #2) for the ordinance follows:

OPTION #1: PINAL COUNTY

PINAL COUNTY
OFF-ROAD VEHICLE ORDINANCE
Originally Adopted December 4, 2002

Section 1 - Authority

- Whereas, Arizona Revised Statutes (A.R.S.) § 11-251(17) allows the Board of Supervisors to adopt provisions necessary to protect the health of the county;
- Whereas, A.R.S. § 11-251(31) allows the Board of Supervisors to make and enforce all local, police and sanitary and other regulations not in conflict with general law;
- Whereas, with respect to three-wheel and four-wheel off-road vehicles, A.R.S. § 11-251(43) allows the Board of Supervisors to regulate the operation of off-road recreational motor vehicles, at least where such operation occurs on public lands without lawful authority, or on private lands without the consent of the lawful owner, or in a manner that generates air pollution;
- Whereas, with respect to regulating other off-road vehicles for the purpose of protecting air quality, which would include even vehicles with other than three- or four-wheels:
 1. A.R.S. § 49-479(A) expressly affords the Board of Supervisors authority to adopt such rules, and implicitly affords the Board authority to adopt an ordinance, as the Board determines may be necessary and feasible to control the release into the atmosphere of air contaminants originating within the territorial limits of the county, provided that if such rules or ordinance are more stringent than rules adopted by the Arizona Department of Environmental Quality (ADEQ) Director, the Board may take such action only if the County first complies with the applicable provisions of A.R.S. § 49-112;
 2. Since the ADEQ Director has not adopted rules regulating off-road vehicle operation for the purpose of protecting air quality, A.R.S. § 49-112(A) requires the Board of Supervisors to condition adoption of a more-stringent ordinance regulating air quality upon a showing that such ordinance is technically and economically feasible, the ordinance is necessary to address a peculiar local condition, and there is credible evidence that the ordinance is necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition;
 3. Making the appropriate showings pursuant to A.R.S. § 49-112(A) provides authority for the Board to regulate off-road recreational motor vehicle use, including the operation of two-wheel vehicles;
- Whereas, A.R.S. § 11-251.01 provides that the Board of Supervisors may impose criminal penalties for the violation of ordinances;
- Whereas, A.R.S. § 49-513 provides that the Board of Supervisors may impose civil penalties for the violation of rules pertaining to air quality;

Section 2 - Findings

Whereas, the Board of Supervisors finds:

- Pinal County falls subject to a peculiar condition, in that Pinal County lies between the major metropolitan areas of Phoenix and Tucson, and as a result of continuing urbanization in those areas, the open areas in Pinal County are experiencing increasing impacts from off-road recreational motor vehicle usage;
- Whether operated on public lands or on private lands, off-road recreational motor vehicles can and do generate air pollution, both directly by churning up air pollution while in operation, and indirectly by disturbing the surface of the desert and other areas in a manner that directly contributes to increased soil erosion and resulting air pollution when winds act on those disturbed areas;
- Based on complaints, staff reports, and direct observations, air pollution generated by off-road recreational motor vehicles can contribute to elevated levels of particulate matter that constitute a risk to public health;
- Based on complaints, staff reports and direct observations, air pollution generated by off-road recreational motor vehicles can cause dust that interferes with visibility on highways and thereby constitute a risk to public safety;
- Based on complaints, staff reports and direct observations, air pollution generated by off-road recreational motor vehicles can interfere with the peaceable use and enjoyment of nearby property owners, and may thereby constitute a nuisance with respect to impacted private property owners;
- Irresponsible or inconsiderate operation of off-road recreational motor vehicles can compound any of the aforementioned air pollution impacts;
- Some off-road recreational motor vehicle operators are responsible and considerate, and some are not;

County Notices Pursuant to A.R.S. § 49-112(A) or (B)

- Any off-road recreational motor vehicles, including two-wheel, three-wheel, four-wheel, or multiple-wheel vehicles, can contribute to the aforementioned air pollution impacts;
- Given Pinal County's peculiar local condition, namely the county's geographic location, which results in substantial off-road recreational motor vehicle traffic emanating from the adjoining urban areas, which traffic includes both considerate and inconsiderate operators, which traffic often generates unwelcome and unacceptable dust impacts that afflict the citizens of Pinal County, that peculiar local condition gives rise to a significant threat to public health, public safety, and the environment in Pinal County;
- To the extent the Board wishes to adopt a "more stringent" regulation or ordinance pertaining to off-road recreational motor vehicles under the authority of A.R.S. § 49-479, the aforementioned finding of a significant threat to public health, public safety, and the environment satisfies the requirements of A.R.S. §§ 49-479(c) and 49-112(A);
- To the extent the Board finds that this ordinance requires no more than that off-road motor vehicle operators respect public and private property, conform to the management policies of landowners, and operate their vehicles in a manner that will protect public health, public safety and the environment, the Board also finds that this ordinance is technically and economically feasible, and thereby meets the requirement of A.R.S. § 49-112(A)(2)(a).

Section 3 - Ordinance

Now, therefore, in order to protect the citizens of the county from dust and air pollution, as well as noise and other nuisance impacts, the Board of Supervisors of Pinal County hereby ordains as follows:

A. Title

This Ordinance shall be known as the Pinal County Off-Road Vehicle Ordinance.

B. Geographic Applicability

1. This Ordinance shall be effective throughout Pinal County, provided that within the corporate boundaries of any incorporated city or town in Pinal County, the Ordinance shall not initially take effect until the respective city or town council endorses this Ordinance in the manner described in A.R.S. § 11-251.05(D).
2. This ordinance shall not apply to vehicle operation within any facility or premises operated under a special use permit or other zoning dispensation issued by the proper planning and zoning authorities of the County or any city or town, at least to the extent that the special use permit expressly authorizes and regulates operation of off-road recreational motor vehicles.

C. Definitions

1. Highway means any of:
 - a. A paved road.
 - b. Any roadway designated in Figure 2-1 of the 2000 Pinal County Transportation Plan as a principal arterial, a minor arterial, a major collector, or a minor collector roadway.
2. Off-road recreational motor vehicle:
 - a. Generally means any multi-wheeled, engine driven vehicle designed, manufactured or adapted to be driven at least occasionally off of maintained roads.
 - b. Specifically includes "dirt bikes," "quads," all-terrain cycles ("ATCs"), all-terrain vehicles ("ATVs"), dune buggies, sand rails and off-road go-karts.
 - c. Expressly excludes:
 - i. Golf carts operating on golf courses.
 - ii. Wheel chairs.
 - iii. Electric-driven vehicles.
 - iv. Any licensed vehicle being operated on a maintained roadway principally for a business purpose.
 - v. Any vehicle owned by a business or enterprise used in the legitimate off-road operations of the business or enterprise.
 - vi. Any licensed vehicle being operated principally for an emergency purpose.
 - vii. Any vehicle being operated principally for a governmental purpose.
3. Operate means driving or controlling a vehicle whether moving, running or not.
4. Recreational purpose means any non-business purpose. In this context, hunting constitutes a recreational activity.
5. Right-of-way means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries. (A.R.S. § 28-101.42)
6. Structure means a man-made building utilized for human residence or business.

Section 4 - General Prohibitions

- A. It shall constitute a violation of this ordinance to operate an off-road recreational motor vehicle on private property without first having the express permission of the landowner.
- B. It shall constitute a violation of this ordinance to operate an off-road recreational motor vehicle on state trust lands without the operator having in his/her possession either:
 - 1. A recreation permit issued by the Arizona State Land Department
 - 2. A valid license issued by the Arizona Game and Fish Department, only for the purpose of lawful taking of wildlife.
- C. Where the Arizona State Land Department, or any other landowner or land manager, has designated specific routes for off-road vehicle use, and closed remaining areas to cross-county travel, it shall constitute a violation of this ordinance to operate an off-road recreational motor vehicle anywhere other than on those designated routes.
- D. Where a public land manager, including the Bureau of Land Management, an irrigation district, or any other statutory special district, has established a land-management plan or promulgated an order, policy or regulation that regulates the use of off-road recreational motor vehicles, it shall constitute a violation of this ordinance to operate such an off-road recreational motor vehicle in violation of that management plan, order, policy or regulation.
- E. Where private lands are posted against trespass, it shall constitute a violation of this ordinance for anyone other than the owner of such lands to operate an off-road recreational motor vehicle on such lands, unless the operator has in his/her physical possession written approval from the landowner authorizing such activity.
- F. It shall constitute a violation of this ordinance to operate an off-road recreational motor vehicle on a public right-of-way, unless the vehicle is licensed.
- G. Notwithstanding any permit, license, or permission from a landowner, or the fact that the operator owns the land, it shall constitute a violation of this ordinance to operate an off-road vehicle in excess of five (5) miles per hour or in a manner that generates visible dust that rises more than one foot above the ground, if the vehicle is within one-quarter mile of either:
 - 1. A highway; or
 - 2. A structure owned by anyone other than the operator
- H. Multiple violations of more than one of the preceding prohibitions shall constitute separate violations of this ordinance.

Section 5 - Enforcement

- A. Any certified peace officer or the control officer, or his/her authorized representative, may enforce this ordinance.
- B. Pursuant to A.R.S. § 11-251.05(A)(2), violation of this ordinance shall constitute a Class 3 misdemeanor, and may be punishable by a fine of up to five hundred dollars (\$500.00) or imprisonment for up to 30 days or both.
- C. Pursuant to A.R.S. § 49-513, violation of this ordinance shall be subject to a civil penalty in an amount of no less than one hundred dollars (\$100.00) and no more than one thousand dollars \$1000.00.

Option #2 - Supervisor's District #2

DRAFT

PINAL COUNTY
OFF-ROAD VEHICLE ORDINANCE
Originally Adopted December 4, 2002

Section 1 - Authority

- Whereas, Arizona Revised Statutes (A.R.S.) § 11-251(17) allows the Board of Supervisors to adopt provisions necessary to protect the health of the county;
- Whereas, A.R.S. § 11-251(31) allows the Board of Supervisors to make and enforce all local, police and sanitary and other regulations not in conflict with general law;
- Whereas, with respect to three-wheel and four-wheel off-road vehicles, A.R.S. § 11-251(43) allows the Board of Supervisors to regulate the operation of off-road recreational motor vehicles, at least where such operation occurs on public lands without lawful authority, or on private lands without the consent of the lawful owner, or in a manner that generates air pollution;

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- Whereas, with respect to regulating other off-road vehicles for the purpose of protecting air quality, which would include even vehicles with other than three- or four-wheels:
 1. A.R.S. § 49-479(A) expressly affords the Board of Supervisors authority to adopt such rules, and implicitly affords the Board authority to adopt an ordinance, as the Board determines may be necessary and feasible to control the release into the atmosphere of air contaminants originating within the territorial limits of the county, provided that if such rules or ordinance are more stringent than rules adopted by the Arizona Department of Environmental Quality (ADEQ) Director, the Board may take such action only if the County first complies with the applicable provisions of A.R.S. § 49-112;
 2. Since the ADEQ Director has not adopted rules regulating off-road vehicle operation for the purpose of protecting air quality, A.R.S. § 49-112(a) requires the Board of Supervisors to condition adoption of a more-stringent ordinance regulating air quality upon a showing that such ordinance is technically and economically feasible, the ordinance is necessary to address a peculiar local condition, and there is credible evidence that the ordinance is necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition;
 3. Making the appropriate showings pursuant to A.R.S. § 49-112(A) provides authority for the Board to regulate off-road recreational motor vehicle use, including the operation of two-wheel vehicles;
- Whereas, A.R.S. § 11-251.01 provides that the Board of Supervisors may impose criminal penalties for the violation of ordinances;
- Whereas, A.R.S. § 49-513 provides that the Board of Supervisors may impose civil penalties for the violation of rules pertaining to air quality;

Section 2 - Findings

Whereas, the Board of Supervisors finds:

- Pinal County falls subject to a peculiar condition, in that Pinal County lies between the major metropolitan areas of Phoenix and Tucson, and as a result of continuing urbanization in those areas, the open areas in Pinal County are experiencing increasing impacts from off-road recreational motor vehicle usage;
- Whether operated on public lands or on private lands, off-road recreational motor vehicles can and do generate air pollution, both directly by churning up air pollution while in operation, and indirectly by disturbing the surface of the desert and other areas in a manner that directly contributes to increased soil erosion and resulting air pollution when winds act on those disturbed areas;
- Based on complaints, staff reports, and direct observations, air pollution generated by off-road recreational motor vehicles can contribute to elevated levels of particulate matter that constitute a risk to public health;
- Based on complaints, staff reports and direct observations, air pollution generated by off-road recreational motor vehicles can cause dust that interferes with visibility on highways and thereby constitute a risk to public safety;
- Based on complaints, staff reports and direct observations, air pollution generated by off-road recreational motor vehicles can interfere with the peaceable use and enjoyment of nearby property owners, and may thereby constitute a nuisance with respect to impacted private property owners;
- Irresponsible or inconsiderate operation of off-road recreational motor vehicles can compound any of the aforementioned air pollution impacts;
- Some off-road recreational motor vehicle operators are responsible and considerate, and some are not;
- Any off-road recreational motor vehicles, including two-wheel, three-wheel, four-wheel, or multiple-wheel vehicles, can contribute to the aforementioned air pollution impacts;
- Given Pinal County's peculiar local condition, namely the county's geographic location, which results in substantial off-road recreational motor vehicle traffic emanating from the adjoining urban areas, which traffic includes both considerate and inconsiderate operators, which traffic often generates unwelcome and unacceptable dust impacts that afflict the citizens of Pinal County, that peculiar local condition gives rise to a significant threat to public health, public safety, and the environment in Pinal County;
- To the extent the Board wishes to adopt a "more stringent" regulation or ordinance pertaining to off-road recreational motor vehicles under the authority of A.R.S. § 49-479, the aforementioned finding of a significant threat to public health, public safety, and the environment satisfies the requirements of A.R.S. §§ 49-479(c) and 49-112(A);
- To the extent the Board finds that this ordinance requires no more than that off-road motor vehicle operators respect public and private property, conform to the management policies of landowners, and operate their vehicles in a manner that will protect public health, public safety and the environment, the Board also finds that this ordinance is technically and economically feasible, and thereby meets the requirement of A.R.S. § 49-112(A)(2)(a).

Section 3 - Ordinance

Now, therefore, in order to protect the citizens of the county from dust and air pollution, as well as noise and other nuisance impacts, the Board of Supervisors of Pinal County hereby ordains as follows:

A. Title

This Ordinance shall be known as the Pinal County Off-Road Vehicle Ordinance.

B. Geographic Applicability

1. This Ordinance shall be effective throughout the Supervisor District #2 area (delineated on the 2001 Supervisor District Map of Pinal County as follows: Township 1 north, range 10 east through 13 east; Township 1 south, range 10 east through 13 east; Township 2 south, range 2 east; Township 2 south, range 10 east through 14 east; Township 3 south, range 2 east through 6 east; Township 3 south, range 10 east through 14 east), provided that within the corporate boundaries of any incorporated city or town in District #2, the Ordinance shall not initially take effect until the respective city or town council endorses this Ordinance in the manner described in A.R.S. § 11-251.05(D).
2. This ordinance shall not apply to vehicle operation within any facility or premises operated under a special use permit or other zoning dispensation issued by the proper planning and zoning authorities of the County or any city or town, at least to the extent that the special use permit expressly authorizes and regulates operation of off-road recreational motor vehicles.

C. Definitions

1. Highway means any of:

- a. A paved road.
- b. Any roadway designated in Figure 2-1 of the 2000 Pinal County Transportation Plan as a principal arterial, a minor arterial, a major collector, or a minor collector roadway.

2. Off-road recreational motor vehicle:

- a. Generally means any multi-wheeled, engine driven vehicle designed, manufactured or adapted to be driven at least occasionally off of maintained roads.
- b. Specifically includes "dirt bikes," "quads," all-terrain cycles ("ATCs"), all-terrain vehicles ("ATVs"), dune buggies, sand rails and off-road go-karts.
- c. Expressly excludes:
 - i. Golf carts operating on golf courses.
 - ii. Wheel chairs.
 - iii. Electric-driven vehicles.
 - iv. Any licensed vehicle being operated on a maintained roadway principally for a business purpose.
 - v. Any vehicle owned by a business or enterprise used in the legitimate off-road operations of the business or enterprise.
 - vi. Any licensed vehicle being operated principally for an emergency purpose.
 - vii. Any vehicle being operated principally for a governmental purpose.

3. Operate means driving or controlling a vehicle whether moving, running or not.

4. Recreational purpose means any non-business purpose. In this context, hunting constitutes a recreational activity.

5. Right-of-way means the privilege of the immediate use of the highway. Right-of-way when used within the context of the real property on which transportation facilities and appurtenances to the facilities are constructed or maintained means the lands or interest in lands within the right-of-way boundaries. (A.R.S. § 28-101.42)

6. Structure means a man-made building utilized for human residence or business.

Section 4 - General Prohibitions

A. It shall constitute a violation of this ordinance to operate an off-road recreational motor vehicle on private property without first having the express permission of the landowner.

B. It shall constitute a violation of this ordinance to operate an off-road recreational motor vehicle on state trust lands without the operator having in his/her possession either:

1. A recreation permit issued by the Arizona State Land Department
2. A valid license issued by the Arizona Game and Fish Department, only for the purpose of lawful taking of wildlife.

C. Where the Arizona State Land Department, or any other landowner or land manager, has designated specific routes for off-road vehicle use, and closed remaining areas to cross-county travel, it shall constitute a violation of this ordinance to operate an off-road recreational motor vehicle anywhere other than on those designated routes.

D. Where a public land manager, including the Bureau of Land Management, an irrigation district, or any other statutory special district, has established a land-management plan or promulgated an order, policy or regulation that regulates the use

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of off-road recreational motor vehicles, it shall constitute a violation of this ordinance to operate such an off-road recreational motor vehicle in violation of that management plan, order, policy or regulation.

- E. Where private lands are posted against trespass, it shall constitute a violation of this ordinance for anyone other than the owner of such lands to operate an off-road recreational motor vehicle on such lands, unless the operator has in his/her physical possession written approval from the landowner authorizing such activity.
- F. It shall constitute a violation of this ordinance to operate an off-road recreational motor vehicle on a public right-of-way, unless the vehicle is licensed.
- G. Notwithstanding any permit, license, or permission from a landowner, or the fact that the operator owns the land, it shall constitute a violation of this ordinance to operate an off-road vehicle in excess of five (5) miles per hour or in a manner that generates visible dust that rises more than one foot above the ground, if the vehicle is within one-quarter mile of either:
 - 1. A highway; or
 - 2. A structure owned by anyone other than the operator
- H. Multiple violations of more than one of the preceding prohibitions shall constitute separate violations of this ordinance.

Section 5 - Enforcement

- A. Any certified peace officer or the control officer, or his/her authorized representative, may enforce this ordinance.
- B. Pursuant to A.R.S. § 11-251.05(A)(2), violation of this ordinance shall constitute a Class 3 misdemeanor, and may be punishable by a fine of up to five hundred dollars (\$500.00) or imprisonment for up to 30 days or both.
- C. Pursuant to A.R.S. § 49-513, violation of this ordinance shall be subject to a civil penalty in an amount of no less than one hundred dollars (\$100.00) and no more than one thousand dollars \$1000.00.

NOTICE OF PUBLIC INFORMATION

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

1. Title and its heading:

Ozone Flex Program and Memorandum of Agreement

2. The public information relating to the Pinal County Ozone Flex Program:

The Pinal County Air Quality Control District (PCAQCD) has provided a policy and action plan that establishes procedures for improving air quality within the county boundaries. The plan provides that Pinal County commit to use grant funding provided by the Arizona Department of Environmental Quality for consulting services to provide a foundational state implementation plan (SIP) to determine the current status of ground level ozone pollution in Pinal County. This SIP will be a planning tool to analyze the emissions, model air dispersion, examine current control measures, evaluate permitting and compliance procedures, propose discretionary and voluntary control measures, provide contingency measures, and furnish a time line for implementation of the selected measures and the significant activities that may affect implementation. The potential voluntary measures to control ozone pollution include:

- a. Travel Reduction Program in Area A of Pinal County
- b. Vehicle Engine Idling Ordinance in Area A of Pinal County
- c. Cleaner Burning Gasoline in Area A of Pinal County
- d. Stage II Vapor Recovery in Area A of Pinal County
- e. Inspection/Maintenance Program in Area A of Pinal County
- f. Low-emitting asphalt and striping materials to be used by Pinal County Public Works
- g. Gas Cap Testing and Replacement Program
- h. Encouraging the replacement of gas-powered lawn equipment with electric equipment
- i. Encouraging the use of spill-proof and leak-proof gasoline containers
- j. Educational Outreach

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*Area A - As annotated in Arizona Revised Statutes § 49-541, is the area delineated on the 1994 Supervisor District Map of Pinal County as follows: Township 1 north, range 8 east, and range 9 east; Township 1 south, range 8 east and range 9 east; Township 2 south, range 8 east and range 9 east; Township 3 south, range 7 east through range 9 east.

The potential contingency measures to control ozone pollution include:

- a. Upon reaching 85% of the ozone standard - Expansion of the Travel Reduction Program and Vehicle Engine Idling Ordinance to be countywide.
- b. Upon reaching 90% of the ozone standard - Request Legislative action to require cleaner burning gasoline throughout the county.
- c. Upon reaching 95% of the ozone standard - Request Legislative action to require Stage II Vapor Recovery systems for gas stations.
- d. Upon reaching 100% of the ozone standard - Request Legislative action to require a "Steady State Loaded and Idle" Inspection and Maintenance Program throughout the county.

3. The name, address, and telephone number of the person to whom questions and comments about the substantive policy statement may be directed:

Name: Jean Parkinson, Air Quality Planning Manager
Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, AZ 85232
Telephone: (520) 868-6929
Fax: (520) 868-6967
E-mail: jean.parkinson@co.pinal.az.us

4. The time during which the agency will accept written comments about the public information and the time and place where oral comments or questions may be made:

DATE: **TIME:** **PLACE: HO-Florence Complex 31 N. Pinal Street**

Public Meeting:

November 19, 2002 (Tuesday) 10:00 a.m. EOC Room, Bldg. F

Nature: Opportunity for discussion and comments regarding the proposed Natural Events Action Plan - 2002

Oral Proceeding:

December 2, 2002 (Monday) 9:00 a.m. Board of Supervisors' Room, Bldg. A, Administrative #1

Nature: Public Hearing with the opportunity for formal comments on the record regarding the proposed plan. Written comments may be submitted on or before 9:00 a.m. on December 2, 2002.

NOTICE OF PUBLIC INFORMATION

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

1. Title and its heading:

Pinal County Natural Events Action Plan (2002)

2. The public information relating to the Pinal County Natural Events Action Plan:

In 1996, the U.S. Environmental Protection Agency ("EPA") promulgated a Natural Events Policy ("1996 NEP"). The 1996 NEP allows the EPA, in assessing whether an area meets the ambient air quality standards, to exclude consideration of monitored exceedance events resulting from certain specific natural events. High wind conditions potentially qualify as such a natural event.

To gain that benefit of such EPA forbearance, the 1996 NEP requires submittal of a Natural Events Action Plan ("NEAP"). The NEAP must define relevant natural events and the best available control measures ("BACM"). The NEAP must also commit to implementation of BACM, public education, and a number of other measures configured to protect public health.

The 1996 NEP calls for a NEAP to be reevaluated at least every five years.

In 1997, Pinal County submitted such a NEAP to the EPA. That submittal reflected a resolution of the County's Board of Supervisors, dated December 3, 1997. The Pinal NEAP focused on particulate matter ("PM10") exceedances resulting from high wind conditions.

Since that submittal, the EPA has never offered any written comment or criticism of the 1997 Pinal NEAP.

Five years has nearly elapsed since that original submittal. Accordingly, the 1996 NEP calls for a reevaluation at this time.

During the fall of 2002, Pinal County invited public discussion and comment regarding the reevaluation of the 1997 Pinal NEAP. In the course of those discussions, EPA has informally expressed a number of concerns.

While recognizing the practical need to accommodate and respect the EPA's interpretation of its own policy, Pinal County also recognizes the unequivocal, written requirement of the 1996 NEP to reevaluate a NEAP on a five-year cycle.

Given that the EPA's current concerns have yet to be expressed in a written manner that would provide a foundation for response, Pinal County can only conclude that we should attempt to conform to the written mandate of the 1996 NEP calling for a reevaluation of a NEAP on a five-year cycle.

Accordingly, the Pinal County Air Quality Control District ("PCAQCD") proposes to submit a reevaluated NEAP proposal for consideration by the Board of Supervisors, in a manner that will allow for timely resubmittal to the EPA.

In proposing to move forward with consideration of a reevaluated NEAP, PCAQCD anticipates that any additional formal guidance from the EPA would undoubtedly be reflected in any ultimate action by the Board of Supervisors.

The reevaluated NEAP proposes discretionary and voluntary BACM, and defines a time line for implementation of the selected measures and the significant activities that may affect implementation. The plan also provides for a "Speciation Study" of PM₁₀ at five monitors located in western Pinal County, to improve our understanding of the source of PM₁₀ emissions in those areas.

The proposed, reevaluated NEAP will again consist primarily of non-regulatory commitments, and this notice therefore provides a summary of a substantive policy statement, in accord with the requirement of A.R.S. § 49-471.11.(A). Any regulatory elements of the reevaluated NEAP will be covered by separate notices to be published in accord with A.R.S. § 49-471.04.

The potential voluntary measures to control particulate matter (PM-10) pollution include:

- a. Agricultural/Farming - Submit a conservation plan to the Natural Resource Conservation Commission (NRCS) and the Farm Service Agency (FSA).
- b. Public Works - Paving of unpaved roads - 15 miles per year.
- c. Public Works - Mowing instead of blading borrow ditches on paved roads - 2800 miles per year.
- d. Military Facilities, Motocross, Race Tracks, Equestrian and Rodeo Arenas - Cross-wind ridges and pre-water prior to activities.

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e. Feedlots and Dairies - Proper manure application, surface roughening, and pre-water haul roads.

The potential regulatory measures to control PM-10 pollution include:

- a. Industrial Sources - Reasonable available control measures as permit conditions.
- b. Construction Activities - Amend PCAQCD Rule 4-3-060 through 4-3-090.
- c. Off-Road Vehicle Recreational Activities - Off-Road Vehicle Ordinance.
- d. Agricultural/Farming - Revision of PCAQCD Rule §§ 4-2-030.2 and 4-2-020.B.

3. The name and address of agency personnel with whom persons may communicate regarding the public information and the time and place where oral comments or questions may be made:

Name: Jean Parkinson, Air Quality Planning Manager

Address: Pinal County Air Quality Control District
P.O. Box 987
Florence, AZ 85232

Telephone: (520) 868-6929

Fax: (520) 868-6967

E-mail: jean.parkinson@co.pinal.az.us

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